

Washington, Tuesday, September 10, 1940

The President

EXECUTIVE ORDER

DESIGNATING THE SECRETARY OF THE TREAS-URY TO ACT IN RESPECT OF ANY BONDS, NOTES, OR OTHER SECURITIES ACQUIRED ON BEHALF OF THE UNITED STATES UNDER THE PROVISIONS OF THE TRANSPORTATION ACT, 1920, AS AMENDED

By virtue of and pursuant to the authority vested in me by section 213 of Title II of the Transportation Act, 1920, which section was added by the Act of August 13, 1940 (Public No. 766, 76th Congress), I hereby designate the Secretary of the Treasury as the officer authorized to sell, exchange, or otherwise dispose of, or to enter into arrangements for the extension of the maturity of, any bonds, notes, or other securities within the purview of the provisions of the said Act of August 13, 1940, in such manner, in such amounts, at such prices, for cash, securities or other property, or any combination thereof, and upon such terms and conditions as the Secretary of the Treasury may deem advisable and in the public interest.

Franklin D Roosevelt

THE WHITE HOUSE,

September 6, 1940.

[No. 8533]

[F. R. Doc. 40-3774; Filed, September 9, 1940; 9:26 a. m.]

EXECUTIVE ORDER

Amending Schedules A and B of the Civil Service Rules

By virtue of and pursuant to the authority vested in me by the Constitution, by Section 1753 of the Revised Statutes (5 U.S.C. 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, Schedules A and B of the Civil Service Rules are hereby amended to read as follows:

SCHEDULE A—POSITIONS EXCEPTED FROM EX-AMINATION UNDER SECTION 3, CIVIL SERV-ICE RULE II

I. Entire Executive Civil Service

1. Chaplains.

2. Cooks, when in the opinion of the Commission it is not expedient to make appointment upon competitive examination; but this paragraph shall not apply to positions of cook at fixed locations, such as hospitals, quarantine stations, or penal institutions.

3. Positions to which appointments are made by the President without confirma-

tion by the Senate.

4. Special attorneys employed on a temporary basis for specific litigation or other legal work where knowledge of local values or conditions or other specialized qualifications not possessed by the attorneys regularly employed by the department are required for successful results. Such temporary employment shall be only for such time as is required to complete the specific assignment for which the original appointment was approved.

5. Chinese, Japanese, and Hindu in-

terpreters.

6. Any person receiving from one department or establishment of the Government for his personal salary compensation aggregating not more than \$540 per annum whose duties require only a portion of his time, or whose services are needed for very brief periods at intervals, provided that employment under this provision shall not be for job work such as contemplated in section 4 of rule VIII. This paragraph does not apply to employments in Washington, D. C. The name of the employee, designation, duties, rate of pay, and place of employment shall be shown in the periodical reports of changes; and in addition, when payment is not at a per annum rate, the total service rendered and the distribution of such service during the year shall be shown in the report of changes at the end of each year or when the employee is separated from the service. The additional employment under sim-

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ilar conditions of such a person by another department or establishment of the Government will be subject to the approval of the Commission.

7. Any person employed in a foreign country or in the Virgin Islands, or in Puerto Rico when public exigency warrants, or in any island possession of the United States in the Pacific ocean (except the Hawaiian Islands), or United States citizens employed in the Philippine Islands, when in the opinion of the Commission it is not practicable to treat the position as in the competitive classified service; but this paragraph shall not apply to any person employed in Canada or Mexico in the service of the Immigration and Naturalization Service, Department of Justice, or to any person employed in any foreign country by the Bureau of Customs of the Treasury Department.

8. Officers and employees in the Federal service on the Isthmus of Panama, except accountant, bookkeeper, clerk, draftsman, physician, playground director, statistician, stenographer, surgeon, trained nurse, typist, and harbor personnel in the Quartermaster Corps of the War Department. Appointments to clerical positions on the Isthmus of Panama paying \$100 in United States currency per month or less may be made without examination.

9. Positions in Alaska when, in the opinion of the Commission, the use of existing registers or the establishment of new registers is considered impracticable. Former employees who served in positions excepted under this paragraph may be reinstated to positions in Alaska in the department in which they served upon recommendation of the appointing officer and approval of the Civil Service Commission.

10. Temporary, part-time, or intermittent employments of mechanics, skilled laborers, and tradesmen on construction or repair work in the field services, in places where there is no local board of examiners of the Civil Service Commission for the employing establishment, and

where the Commission deems it impracticable to establish registers of eligibles. Seasonal employments of a recurring nature are not authorized under this paragraph.

II. State Department

1. Three special assistants to the Secretary of State.

2. All employees of international commissions, congresses, conferences, and boards, except the International Joint Commission; the International Boundary Commission, United States and Mexico; and the International Boundary Commission, United States, Alaska, and Canada.

3. Chief and two assistant chiefs of the foreign service buildings office.

4. Two private secretaries or confidential assistants to the Secretary of State, and one to each Assistant Secretary of State.

5. One private secretary or confidential assistant to the head of each bureau in the State Department appointed by the President.

6. One chauffeur for the Secretary of

7. Gage readers employed part-time or intermittently by the International Boundary Commission, United States and Mexico, at such isolated localities that in the opinion of the Commission the establishment of registers is impracticable.

III. Treasury Department

1. Two private secretaries or confidentiel assistants to the Secretary of the Treasury, and one to each Assistant Secretary of the Treasury.

2. One private secretary or confidential assistant to the head of each bureau in the Treasury Department appointed by the President.

3. Special employees in the field service of the Bureau of Narcotics; and special employees for temporary detective work in the field service of the Bureau of Internal Revenue under the appropriation for detecting and bringing to trial and punishment persons violating the internal revenue laws, Appointments under this paragraph shall be limited to persons whose services are required because of individual knowledge of violations of the law, and such appointments shall be continued only so long as the personal knowledge possessed by the appointee of such violation makes his services necessary. This exemption from competition is for special and unusual cases only and report shall be made to the Commission by letter as soon as the appointment is made.

4. Bureau of Customs: Positions in foreign countries designated as "interpreter-translator" and "special employee," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

5. Coast Guard: Lamplighters in the Lighthouse Service.

IV. War Department

1. Two private secretaries or confidential assistants to the Secretary of War and one to each Assistant Secretary of War.

2. One chauffeur for the Secretary of

War.

- 3. United States Army Transport Service: Longshoremen employed at ports in the United States; and the following positions on transport ships: Seaman, water tender, oiler, fireman, wiper, roombath and deck steward, messman, messboy, dishwasher, janitor, porter, scullion, silver and glass man, watchman, headwaiter, waiter, bellboy, barber, laundryman, Post Exchange steward, administrative assistant-Post Exchange, soda dispenser; and all grades of the following: Cook, baker, butcher, pantryman. The Commission, with the concurrence of the Secretary of War, is authorized to include in the classified service any of the foregoing positions which are of a character and stability of tenure similar to those now classified.
- 4. Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter, when in the opinion of the Commission they cannot be filled from registers of eligibles.

One consulting architect for work of reconstructing the United States Military

Academy, West Point, N. Y.

- 6. In the Philippine Islands: Artisans engaged in a recognized trade, craft or skilled (manual) occupation; helpers in such occupations; and other subordinate employees in similar manual occupations; when, in the opinion of the Commission, the establishment of registers is impracticable.
- 7. Caretakers of abandoned military reservations or of abandoned or unoccupied military posts when the positions are filled by retired noncommissioned officers or enlisted men.
- 8. Civilian professors, instructors, and teachers at the United States Military Academy, West Point, N. Y., except the following: Civilian instructor of wrestling, civilian instructor of boxing, civilian instructor of gymnastics, chapel organist and choirmaster, teacher at the children's school, and librarian.
- Physicians and surgeons employed on a fee basis or under contract when, in the opinion of the Commission, the establishment of registers is impracticable.
- 10. Employees at Army hospitals in the Philippines and in Puerto Rico when, in the opinion of the Commission, the establishment of registers is impracticable.
- 11. Messenger boys employed on the Alaska Communications System.
- Internes (medical and dental) in Army hospitals.

V. Navy Department

1. Two private secretaries or confidential assistants to the Secretary of the retary of the Interior.

Navy, and one to each Assistant Secretary of the Navy.

2. Professors, instructors, and teachers in the United States Naval Academy.

- 3. Positions the duties of which are of a quasi-naval character and involve the security of secret or confidential matter when, in the opinion of the Commission, they cannot be filled from registers of eligibles
- 4. Positions of attendant and orderly at the United States Naval Home when filled by the appointment of beneficiaries of the Home.
- 5. At the naval stations at Cavite, Olongapo, and Guantanamo: Artisans engaged in a recognized craft, trade, or skilled (manual) occupation; helpers in such occupations; other subordinate employees in similar manual occupations; supervisory employees over workers in these occupations; when, in the opinion of the Commission, the establishment of registers is impracticable.

VI. Department of Justice

1. Director and not more than three assistant directors of prisons.

2. Two private secretaries or confidential assistants to the Attorney General, and one to each of the following: Assistant to the Attorney General, Solicitor General, Assistant Solicitor General, and each Assistant Attorney General.

3. One chauffeur for the Attorney

General.

- 4. Eight positions in the immediate office of the Attorney General in addition to those excepted under paragraph 2 of this subdivision.
 - 5. Members of the board of parole.
- During the period beginning July 1, 1940, and ending June 30, 1941, all positions in the Federal Bureau of Investigation except fingerprint classifiers.
- 7. National Training School for Boys: The Superintendent.
- 8. Federal Prison Industries, Inc.: The Commissioner of Industries.

VII. Post Office Department

- 1. Two private secretaries or confidential assistants to the Postmaster General, one to each Assistant Postmaster General, and one to the Solicitor of the Post Office Department.
- One private secretary or confidential assistant to the head of each bureau (or office) in the Post Office Department in Washington, D. C., who is appointed by the President.
- 3. All employees in post offices of the third and fourth class, except postmasters and village delivery carriers.
- 4. One chauffeur for the Postmaster
- Two special assistants to the Postmaster General.

VIII. Department of the Interior

1. Two private secretaries or confidential assistants to the Secretary of the Interior and one to each Assistant Secretary of the Interior.

- 2. One chauffeur for the Secretary of the Interior.
- 3. The assistant to the Secretary in the office of the Secretary of the Interior.
- 4. Consulting engineers, geologists, and economists on reclamation work in agriculture.
- 5. Positions in the Bureau of Indian Affairs, Washington, D. C., and in the field, when filled by the appointment of Indians who are of one-fourth or more Indian blood.
- 6. One private secretary or confidential assistant to the head of each bureau in the Interior Department who is appointed by the President, and one each to the Governors of Alaska, Hawaii, Puerto Rico, and the Virgin Islands.
- 7. All employees of the Neopit Lumber Mills on the Menominee Indian Reservation in Wisconsin.
- 8. Agricultural extension agents and home demonstration agents employed in field positions in the Indian Service, the work of which is financed jointly by the Indian Service and cooperating persons, organizations or governmental agencies outside the Federal service.
- 9. Local physicians and dentists employed in the Indian Service on a part-time or fee basis or under contract, when, in the opinion of the Commission, the establishment of registers is impracticable.
- 10. Temporary, intermittent, or seasonal positions in the National Park Service when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a National Park and as being dependent for livelihood primarily upon employment available within the National Park, subject to the approval of the Commission.
- 11. Seaman, deckhand, fireman, cook, mess attendant, and water tender on vessels of the Fish and Wildlife Service.
- 12. Housekeepers in the Indian Service, at a gross salary not in excess of \$600 per annum.
- 13. Agents in the Fish and Wildlife Service and the Grazing Service employed in field positions, the work of which is financed jointly by the Interior Department and cooperating persons or organizations outside the Federal Service.
- 14. Positions in the field service of the Fish and Wildlife Service concerned with scientific fishery investigations when filled by the appointment of students at colleges and universities of recognized standing: Provided, that substantial contributions to the investigations are made by such colleges or universities in money, services, or materials or in the use of buildings, laboratories, equipment, or facilities or otherwise. Such employments may be continued under this authority only so long as the appointee is a bona fide student at the particular college or university and receives academic credit toward a degree for the

work which he is performing for the Administration, the Land Bank Commis- of the Commission. Appointments un-Fish and Wildlife Service.

IX. Department of Agriculture

- 1. (a) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service.
- (b) Local agents, except veterinarians, employed temporarily outside of Washington in demonstrating in their respective localities the necessity of eradicating cattle ticks, scabies, hog cholera, and animal tuberculosis, and other contagious or infectious animal diseases.
- (c) Positions the duties of which require a speaking knowledge of one of the Indian languages.

In making appointments under subparagraphs (a), (b) or (c) of this paragraph, a full report shall be submitted immediately by the Department to the Commission setting forth the name, designation, and compensation of the appointee and a statement of the duties to which he is to be assigned and of his qualifications for such duties, in such detail as to indicate clearly that the appointment is properly made under one of the above classes. The same procedure shall be followed in case of the assignment of any such agent to duties of a different character.

- 2. One chauffeur for the Secretary of Agriculture.
- 3. Two private secretaries or confidential assistants to the Secretary of Agriculture, and one to each Assistant Secretary of Agriculture.
- 4. Student assistants whose salaries shall not exceed a rate of \$480 a year while employed. Only bona fide students at high schools or colleges of recognized standing shall be eligible for appoint-ment under this paragraph. Appointments shall not exceed 6 months in any 1 calendar year, except in exceptionally meritorious cases, and then only upon prior approval of the Commission. Appointments under this paragraph shall be reported to the Commission in such form as the Commission may prescribe.
- 5. Temporary, intermittent or seasonal positions in the Forest Service when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest. subject to the approval of the Commis-
- 6. Two assistants to the Secretary in the office of the Secretary of Agriculture.
- 7. Any local veterinarian employed on a fee basis or a part-time basis where, in the opinion of the Commission, the establishment of registers is impracticable.
- 8. Farm Credit Administration: One private secretary or confidential assistant

sioner, the Intermediate Credit Commissioner, the Production Credit Commissioner, and the Cooperative Bank Commissioner.

9. Farm Credit Administration: Positions in the Federal Intermediate Credit Banks and the Production Credit Cor-

10. Farm Credit Administration: Positions in the Regional Agricultural Credit Corporations.

11. Farm Credit Administration: Agents employed in field positions the work of which is financed jointly by the Administration and cooperating persons, organizations, or governmental agencies outside the Federal service.

12. Commodity Credit Corporation: Members of the Board of Directors.

X. Executive Office of the President

1. Bureau of the Budget: One private secretary or confidential assistant each to the Director and Assistant Director.

2. National Resources Planning Board: Professional, scientific and technical experts (including part-time advisors, parttime chairmen of field offices, and parttime chairmen and members of technical advisory committees) employed for short periods for consultation purposes.

3. National Resources Planning Board: Employees in field positions the work of which is financed jointly by the Board and cooperating organizations or Governmental agencies outside the Federal

4. National Resources Planning Board: Student assistants whose salaries shall not exceed a rate of \$480 a year while employed. Only bona fide students at high schools and colleges of recognized standing shall be eligible for appointment under this paragraph. Appointments shall not exceed six months in any one calendar year, except in exceptionally meritorious cases and then only upon prior approval of the Commission. Appointments under this paragraph shall be reported to the Commission in such form as the Commission may prescribe.

XI. Department of Commerce

- 1. Two private secretaries or confidential assistants to the Secretary of Commerce, and one to each Assistant Secretary of Commerce.
- 2. One private secretary or confidential assistant to the head of each bureau in the Department of Commerce who is appointed by the President.
- 3. One chauffeur for the Secretary of Commerce.
- 4. Student assistants in the National Bureau of Standards whose salaries shall not exceed a rate of \$480 a year each while employed. Only bona fide students at high schools or colleges of recognized standing pursuing technical or scientific courses shall be eligible for appointment under this paragraph. Appointments shall not exceed 6 months in any 1 calendar year, except in especially meritorious each to the Governor of the Farm Credit | cases, and then only upon prior approval

der this paragraph shall be reported to the Commission in such form as the Commission may prescribe.

5. Seaman, deckhand, fireman, cook, mess attendant, and water tender on vessels of the Department of Commerce. The Commission, with the concurrence of the Secretary of Commerce, is authorized to include in the classified service any of the foregoing positions which are of a character and stability of tenure similar to those now classified.

6. Six assistants to the Secretary in the office of the Secretary of Commerce.

7. Temporary appointments to such positions required in connection with the surveying operations of the field service of the Coast and Geodetic Survey as may be authorized by the Commission after consultation with the Department of Commerce. Appointments to such positions shall not exceed 6 months in any 1 calendar year.

8. Caretakers and helpers at magnetic and seismological observatories outside continental United States.

9. Caretakers and light attendants employed on emergency landing fields and other air navigation facilities.

10. One confidential assistant to each of the members of the Civil Aeronautics Board and to the Administrator, provided that the position of private secretary exempt by statute from competitive civil service requirements in each case is filled by the appointment of a classified civil service employee.

11. Agents to take and transmit meteorological observations in connection with airways, whose duties require only part of their time, and whose compensation does not exceed \$100 a month.

XII. Interstate Commerce Commission

1. One private secretary or confidential assistant to each commissioner.

XIII. Department of Labor

1. Commissioners of conciliation in labor disputes whenever in the judgment of the Secretary of Labor the interests of industrial peace so require.

2. Three special assistants to the Secretary in the office of the Secretary.

3. One private secretary or confidential assistant to the head of each bureau in the Department of Labor who is appointed by the President.

4. Two private secretaries or confidential assistants to the Secretary of Labor, and one to each Assistant Secretary of Labor.

XIV. General Accounting Office

1. One private secretary or confidential assistant to the Comptroller General.

XV. Maritime Labor Board

1. One private secretary or confidential assistant to each member of the Board.

XVI. Board of Tax Appeals

1. One private secretary or confidential assistant to each member of the Board.

XVII. Federal Loan Agency

1. Electric Home and Farm Authority: Members of the Board of Trustees.

2. Export-Import Bank of Washington: Members of the Board of Trustees.

3. Export-Import Bank of Washington: One private secretary or confidential assistant to each member of the Board of Trustees.

XVIII. Veterans' Administration

1. Five special assistants to the Administrator.

2. One private secretary or confidential assistant to the Administrator.

3. Professional or technical specialists when employed temporarily for consul-

tation purposes.

4. Positions in Veterans' Administration facilities when filled by the appointment of members of such facilities receiving domiciliary care if, in the opinion of the Veterans' Administration, the duties can be satisfactorily performed by such members.

5. Any local physician or dentist employed on a fee basis or a part-time basis when, in the opinion of the Commission, the establishment of registers

is impracticable.

XIX. Federal Security Agency

1. Two private secretaries or confidential assistants to the Administrator of the Federal Security Agency.

2. Social Security Board: One private secretary or confidential assistant to each

member of the Board.

3. Public Health Service: Special escorts to accompany patients of the Public Health Service in accordance with existing laws and regulations. Employments under this paragraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

4. Public Health Service: Classified positions at Government sanatoria when filled by patients during treatment or

convalescence.

5. Public Health Service: All persons actually employed in leprosy, yellow fever, and psittacosis investigation stations.

6. Public Health Service: Any local physician or dentist employed on a fee basis or a part-time basis when, in the opinion of the Commission, the establishment of registers is impracticable.

7. Public Health Service: Employees engaged on problems in preventive medicine financed or participated in by the Federal Security Agency and a cooperating State, county, municipality, incorporated organization, or an individual, in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

8. Public Health Service: Professional, technical, or scientific specialists when employed on a fee basis or part-time basis as consultants in connection with

approval of the Commission,

9. Public Health Service: Internes (medical and dental).

10. Public Health Service: Research associates holding fellowships for a fixed term of service in the National Institute of Health under the act approved May 26, 1930. The qualifications for such re-

search associates shall be subject to ap-

proval by the Commission.

11. Public Health Service: One position of cook (oriental style), one position of kitchenman-waiter, and one position of attendant-messenger-interpreter at the Immigration Hospital, Angel Island, California.

12. Freedmen's Hospital: Pupil nurses, internes, and resident physicians.

13. St. Elizabeth's Hospital: Visiting physicians and organist.

XX. Employees' Compensation Commission

1. One private secretary or confidential assistant to each Commissioner.

XXI. U. S. Maritime Commission

1. All positions on Government owned ships operated by the U.S. Maritime Commission.

XXII. Federal Power Commission

1. One private secretary or confidential assistant to each Commissioner.

XXIII. Securities and Exchange Commission

1. One private secretary or confidential assistant to each member of the Commission.

XXIV. National Railroad Adjustment Board

1. One private secretary or confidential assistant to each member of the Board.

XXV. National Mediation Board

1. One private secretary or confidential assistant to each member of the Board.

XXVI. Federal Deposit Insurance Corporation

1. One private secretary or confidential assistant to each member of the Board of Directors.

2. All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

XXVII. Advisory Commission to Council of National Defense

1. One private secretary or confidential assistant to each member of the Advisory Commission to Council of National

SCHEDULE E-POSITIONS WHICH MAY BE FILLED UPON NONCOMPETITIVE EXAMINA-

I. Interior Department

1. Any competitive position at an Inproblems in preventive medicine, such dian school when filled by the wife of a and whose training and experience along

appointments to be subject to the prior | competitive employee of the school, when because of isolation or lack of quarters, the Commission deems it in the interest of the service to have appointment made upon noncompetitive examination.

2. Twelve field representatives to act as the immediate and confidential representatives of the Commissioner of Indian Affairs, subject to such evidence of qualifications as the Commission may prescribe after consultation with the Commissioner of Indian Affairs.

II. Federal Works Agency

1. Such administrative or custodial positions in the field service of the United States Housing Authority relating to the management or maintenance of Federal low-rent housing projects which, in the opinion of the Commission, cannot be filled satisfactorily through open competitive examinations; provided that no position shall be filled under this paragraph unless it is clearly demonstrated that the best interests of the service will be served thereby.

III. Department of Commerce

1. Not to exceed six specialists who may be employed in the United States for the purpose of promoting the foreign and domestic commerce of the United States

2. Special agents employed in collecting cotton statistics.

IV. War Department

1. Positions of military storekeeper in the Signal Service at Large when filled by retired noncommissioned officers of the Signal Corps.

2. Four positions of headquarters messenger at the headquarters of the Philippine Department, when filled by honorably discharged enlisted men who have been on duty at those headquarters.

3. Any person employed in an area outside the continental limits of the United States (except the Canal Zone and Alaska), when in the opinion of the Secretary of War the best interests of the service so require.

4. Classified positions in the field service of the War Department when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the

Commission.

V. District of Columbia

1. Surgeons of the police and fire departments of the District of Columbia.

VI. Treasury Department

1. Classified positions in the field service of the Treasury Department, when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

VII. State Department

1. Specialists in foreign relations, political, economic, and financial, whose proposed compensation is \$3,200 or more. the lines of their proposed duties meet the standard minimum qualifications set up in open competitive examinations for positions in the professional service for corresponding grades.

2. Persons formerly employed abroad as United States diplomatic or consular officers of career or foreign-service officers of career for the period of at least 4 years, for service in the Department of State as administrative officers or executive advisers in positions comparable in salary with the associate professional grade or higher.

VIII. Navy Department

- 1. Such positions of a professional, scientific, technical, or supervisory nature under the Naval Establishment in the Philippine Islands, as may be agreed upon by the Secretary of the Navy and the Commission.
- 2. Any person employed in an area outside the continental limits of the United States (except the Canal Zone and Alaska), when in the opinion of the Secretary of the Navy the best interests of the service so require.
- 3. Classified positions in the field service of the Navy Department and the Marine Corps when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

IX. Post Office Department

1. One postal rate expert.

X. Veterans' Administration

1. Classified positions in the Veterans' Administration when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

XI. Department of Agriculture

1. Classified positions in the field service of the Department of Agriculture when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

XII. The National Archives

1. Classified positions in the National Archives when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

XIII. Department of Justice

1. National Training School for Boys: Assistants to cottage officers when filled by the appointment of bona fide students at colleges or universities at salaries not in excess of \$540 per annum, subject to the approval of the Commission.

XIV. Smithsonian Institution

1. Classified positions in the Smithsonian Institution when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission.

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The Civil Service Commission with the concurrence of the department or agency concerned may revoke in whole or in part any paragraph of Schedule A or B.

Final decision as to whether the duties of any position in the executive civil service are such that appointments thereto are authorized under any paragraph of Schedule A or B shall rest with the Civil Service Commission.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

September 6, 1940.

[No. 8534]

[F. R. Doc. 40-3775; Filed, September 9, 1940; 9:26 a. m.]

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULA-TIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U.S.C. 132), and the act of May 22, 1918, 40 Stat. 559 (22 U.S.C. 223–226), as extended by the act of March 2, 1921, 41 Stat. 1217 (22 U.S.C. 227), it is ordered that Chapter XXII of the Foreign Service Regulations of the United States be, and it is hereby, amended as follows:

1. The words ", except consular agents," shall be inserted between the words "Officers of the Foreign Service" and the words "shall familiarize themselves" in section XXII-1.

2. The words "Attorney General" shall be substituted for the words "Secretary of Labor" in section XXII-1.

FRANKLIN D ROOSEVELT THE WHITE HOUSE,

September 6, 1940. [No. 8535]

[F. R. Doc. 40-3772; Filed, September 9, 1940; 9:26 a. m.]

EXECUTIVE ORDER

ESTABLISHING SAN CLEMENTE ISLAND NAVAL DEFENSIVE SEA AREA

CALIFORNIA

Executive Order No. 7747, dated November 20, 1937, establishing a defensive sea area off the coast of San Clemente Island, California, is hereby amended by substituting the words "one nautical mile" for the words "three hundred yards" as they appear in the first paragraph thereof, and by adding at the end of said first paragraph the following words: "Said defensive sea area shall be known as San Clemente Island Naval Defensive Sea Area". As thus amended said Executive order reads as follows:

"By virtue of and pursuant to the authority vested in me by the provisions of section 44 of the Criminal Code, as amended (U.S.C., title 18, sec. 96), the

12 F.R. 2534.

area of water surrounding San Clemente Island, California, extending from low-water mark out for a distance of one nautical mile beyond low-water mark, is hereby established as a defensive sea area for purposes of national defense, subject to the uses reserved for the Department of Commerce in Executive Order No. 6897, dated November 7, 1934. Said defensive sea area shall be known as San Clemente Island Naval Defensive Sea Area.

"At no time shall vessels or other craft be navigated within the defensive sea area above defined except such as are authorized by the Secretary of the Navy.

"Any person violating the provisions of this order shall be subject to the penalties provided by law."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE, September 6, 1940.

[No. 8536]

[F. R. Doc. 40-3773; Filed, September 9, 1940; 9:26 a. m.]

Rules, Regulations, Orders

TITLE 7-AGRICULTURE

SUBTITLE A—OFFICE OF THE SEC-RETARY OF AGRICULTURE

ORDER AUTHORIZING ASSISTANT TO THE SECRETARY OF THE DEPARTMENT OF AGRI-CULTURE TO AUTHENTICATE DOCUMENTS OF THE DEPARTMENT

I. Claude R. Wickard, Secretary of Agriculture, do hereby authorize H. W. Parisius, Assistant to the Secretary, to authenticate, under the Seal of the Department of Agriculture, pursuant to Section 882 of the Revised Statutes, as amended by section 6 (a) of the act approved June 19, 1934 (48 Stat. 1109; 28 U.S.C., sec. 661), copies of any books, records, papers, or other documents, or any books or records of account in whatever form, or minutes (or portions thereof) of proceedings, or copies of such books or records of account, or copies of such minutes of proceedings, in the Department of Agriculture: and I direct that, upon each such authenticated copy or original, as the case may be, there shall appear a recital that such copy or original has been authenticated and the Seal of the Department of Agriculture affixed thereto by direction of the Secretary of Agriculture; and I further direct that each certificate of authentication shall bear the genuine signature of the said Assistant to the Secretary.

This order is in addition and supplementary to the order of authorization dated December 3, 1936.

Done at Washington, D. C., this 7th day of September 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD, Secretary of Agriculture.

[F. R. Doc. 40-3769; Filed, September 7, 1940; 11:18 a. m.]

CHAPTER I-AGRICULTURAL MAR-KETING SERVICE

PART 104-WOOL WAREHOUSES

REGULATIONS FOR WAREHOUSEMEN STORING WOOL UNDER THE UNITED STATES WARE-HOUSE ACT

By virtue of the authority vested in the Secretary of Agriculture by Section 28 of the United States Warehouse Act, approved August 11, 1916 (39 Stat. 490, Sec. 28; 7 U.S.C. 268), as amended, Part 104, Chapter I, Title 7, CFR, is hereby amended to read as follows:

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DEFINITIONS

§ 104.1 Meaning of words. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may de-

§ 104.2 Terms defined. For the purposes of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) The act. The United States warehouse act, approved August 11, 1916 (39 Stat. 486, as amended; 7 U.S.C. 241-273).

(b) Person. An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) Secretary. The Secretary of Agriculture of the United States.

(d) Designated representative. Chief of the Agricultural Marketing Service.

(e) Chief of the Service. The Chief of the Agricultural Marketing Service.

(f) Department. The United States Department of Agriculture.

(g) Service. The Agricultural Marketing Service of the United States Department of Agriculture.

(h) Regulations. Rules and regulations made under the act by the Secretary.

(i) Warehouse. Any suitable building, structure, or other protected inclosure in which wool is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which wool is or may be stored and for which a license has been issued under the act.

(j) Warehouseman. Any person lawfully engaged in the business of storing wool.

(k) License. A license issued under the act by the Secretary or his designated representative.

(1) Grader. A person licensed under the act by the Secretary, or his designated representative, to grade and to warehouseman shall post the same, and

certificate the grade of wool stored or to be stored in a licensed warehouse.

(m) Weigher. A person licensed under the act by the Secretary, or his designated representative, to weigh and to certificate the weight of wool stored or to be stored in a licensed warehouse.

(n) Receipt. A warehouse receipt.

(o) Kind of wool. Grease, scoured, or pulled, and sorted or unsorted wool, or sorted or unsorted mohair.

(p) State. A State, Territory, or District of the United States.

WAREHOUSE LICENSES

§ 104.3 Application for m. Applications for licenses and amendments to licenses under the act shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or the chief of the Service may find to be necessary to the proper consideration of his application.

§ 104.4 Grounds for not issuing license. A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of wool, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the intent of the act for not issuing such license.

§ 104.5 Net assets. Any warehouseman conducting a warehouse licensed or for which application for license has been made under the act shall have and maintain above all exemptions and liabilities net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$15 per 1,000 pounds or frac-tion thereof of the maximum number of pounds of wool that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the chief of the Service: Provided, That the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 104.12 (b).

§ 104.6 Posting License. Immediately upon receipt of his license or of any amendment thereto under the act, the thereafter, except as otherwise provided thereof may be issued under the same amount has been filed since the filing of in these regulations, keep it posted, until suspended or revoked, in a conspicuous place in the principal office where receipts issued by the warehouseman are delivered to depositors.

§ 104.7 Suspension or revocation of license. Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary or his designated representative may, after opportunity for hearing has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted, in whole or in part, with his control over the warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; or (e) has in any other manner become non-existent or incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in subdivisions (a) to (e) of this section shall come into existence, it shall be the duty of the warehouseman to notify immediately the chief of the Service of the existing condition. Before a license is permanently suspended or revoked for any violation of, or failure to comply with, any provision of the act or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 104.72.

§ 104.8 Return of terminated, suspended or revoked license. When a license issued to a warehouseman terminates or is suspended or revoked by the Secretary or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued, and it shall be posted as prescribed in § 104.6: Provided. That in the discretion of the Secretary or his designated representative a new license may be issued without reference to the suspension.

§ 104.9 Lost or destroyed warehouse license. Upon satisfactory evidence of the loss or destruction of a license isnumber.

§ 104.10 Unlicensed warehousemen must not represent themselves as licensed. No warehouse or its warehouseman or any other person shall be designated or represented as licensed under the act, and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such person or warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

§ 104.11 Time of filing. Unless the warehouseman has previously filed with the Secretary the bond required by § 104.12 he shall file such bond within a time, if any, specified by the Secretary or his designated representative, such bond to cover all obligations arising thereunder during the period of the license.

§ 104.12 Basis of amount of bond; additional amounts. (a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$15 per 1,000 pounds or fraction thereof of the maximum number of pounds of wool that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the chief of the Service but not less than \$5,000 nor more than \$50,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for the said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under §§ 104.11-104.15.

(b) In case of a deficiency in net assets as required by § 104.05, there shall be added to the amount of the bond fixed in accordance with paragraph (a) of this section, an amount equal to such deficiency.

(c) If the Secretary or his designated representative finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section a further amount fixed by him to meet such conditions.

§ 104.13 Amendment of license. If application is made under § 104.3 for an amendment of a license, and no bond previously filed by the warehouseman under §§ 104.11-104.15 covers obligations arising under such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying sued to a warehouseman, a duplicate with the act, unless bond in sufficient or nonnegotiable, issued for wool stored

such application. In the discretion of the Secretary, or his designated representative, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations may be filed in lieu of a new bond.

§ 104.14 New bond required each year. Whenever a license has been issued for a period longer than one year, such license shall not be effective beyond one year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary or his designated representative, prior to the date on which that license would have expired had it been issued for but one year, subject to the provisions of § 104.13.

§ 104.15 Approval of bond. No bond. amendment, or continuation thereof shall be deemed accepted for the purposes of the act and these regulations until it has been approved by the Secretary or his designated representative.

WAREHOUSE RECEIPTS

§ 104.16 Form. (a) Every receipt, whether negotiable or nonnegotiable, issued for wool stored in a warehouse, shall, in addition to complying with the requirements of section 18 of the act (42 Stat. 1284; U.S.C. 260), embody within its written or printed terms the following: (1) The name of the warehouseman and the designation, if any, of the warehouse; (2) the number of the license issued to the warehouseman; (3) a statement whether the warehouseman is incorporated or unincorporated; and, if incorporated, under what laws; (4) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship; (5) a statement, conspicuously placed, whether the wool is insured by the warehouseman and, if insured, to what extent and whether against fire, lightning, or otherwise; (6) the kind of wool; (7) a blank space designated for the purpose in which, if the wool is not commingled, a careful estimate of the shrinkage of the wool may be stated, or in which, if the wool is commingled, a careful estimate of the shrinkage of the wool shall be stated; (8) if the wool is not commingled, its identification in accordance with § 104.34; (9) if the wool is commingled, a clear and conspicuous notation to that effect, and the designation of the lot or pile of which it is a part on the face of the receipt; and (10) the words "Negotiable" or "Nonnegotiable" and "Original" or "Copy" according to the nature of the receipt, clearly and conspicuously printed thereon.

(b) Every receipt, whether negotiable

exceeding one year, for which the wool is accepted for storage under the act and these regulations. Upon demand and surrender of the old receipt, by the lawful holder thereof, at or before the expiration of the specified period, and cancellation of the receipt, the warehouseman, upon such lawful terms and conditions as he may grant at such time to other depositors of wool in his warehouse, if he then continue to act as a licensed warehouseman, shall issue a new receipt for a further specified period not exceeding one year and shall indicate thereon the date when the wool was first received.

(c) Every negotiable receipt issued for wool stored in a warehouse shall, in addition to complying with the requirements of paragraph (a) of this section, embody within its written or printed terms the following: (1) If the wool covered by such receipt was graded by a licensed grader or weighed by a licensed weigher, a statement to that effect; (2) a form of indorsement which may be used by the depositor or the lawful holder of the receipt, or the authorized agent of either, for showing the ownership of, and liens, mortgages, or other encumbrances on, the wool covered by the receipt.

(d) Whenever the grade is stated in a receipt issued for wool stored in a warehouse, such grade shall be stated in accordance with §§ 104.64-104.67.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor, as permitted by section 18 of the act, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor".

(f) If a warehouseman issues a receipt under the act omitting any information not required to be stated, and for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

§ 104.17 Copies of receipts. Either actual copies or skeleton copies of all receipts shall be made, and all such copies, except those issued in lieu of the original, in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy not negotiable".

§ 104.18 Lost or destroyed receipts; bond for. (a) In the case of a lost or destroyed receipt, if there be no statute of the United States or a law of a state applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such new or dupli-

in a warehouse shall specify a period, not | quire the depositor or other person ap-1 has issued his nonnegotiable receipt until plying therefor to make and file with the such receipt has been returned to him or warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value at the time the bond is given of the wool represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

§ 104.19 Printing of receipts. No receipt shall be issued by a warehouseman except it be (a) in form prescribed by the chief of the Service, (b) upon distinctive paper specified by him, (c) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (d) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such

§ 104.20 Grade, weight, shrinkage of commingled wool. The grade, weight, and approximate shrinkage stated in a receipt for wool that is or is to be commingled shall be as determined by a grader and weigher duly licensed to grade and weigh and to certificate the grade and weight thereof under the act and these regulations.

§ 104.21 Cancelation of receipts; delivery of wool. Except as otherwise provided in these regulations all receipts shall be canceled by the warehouseman when the wool covered by such receipts is to be delivered, is to be graded, sorted, or scoured, or its identity is to be disturbed in any manner.

§ 104.22 Partial delivery of wool. If a warehouseman deliver a part only of a lot of wool for which he has issued a negotiable receipt, he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the wool.

§ 104.23 Receipts; return and cancelation. Except as permitted by law or by these regulations a warehouseman shall not deliver wool for which he has issued a negotiable receipt until such receipt has been returned to him and canceled, cate receipt the warehouseman shall re- and shall not deliver wool for which he to which in the exercise of due diligence

he has obtained from the person lawfully entitled to such delivery or his authorized agent a written order for delivery and a signed acknowledgment thereof. Such order shall specify the receipt involved, the grade of the wool if stated on the receipt, and the amount of wool to be delivered.

§ 104.24 Nonnegotiable receipts. Each person to whom a nonnegotiable receipt is issued or the holder thereof shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of wool covered by such receipt, together with the genuine bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of wool covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine.

§ 104.25 Omission of grade; no compulsion by warehouseman. No licensed warehouseman shall, directly or indirectly by any means whatsoever, compel or attempt to compel the depositor of any wool in his warehouse to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMAN

§ 104.26 Method of storing wool. (a) Each warehouseman shall, subject to the provisions of Section 13 of the act (39 Stat. 488; 7 U.S.C. 254), receive for storage in his warehouse all wool offered for storage the identity of which is to be preserved during the storage period, and also, if he so elects, as provided elsewhere in these regulations, all wool which is to be commingled. Each warehouseman who has elected to store in his warehouse wool which is to be commingled shall, when so requested in writing as to any wool by the depositor thereof, mingle such wool with other wool, if any, of the same kind, grade, and approximate shrinkage: Provided, That no wool may be commingled for which a receipt is outstanding unless the receipt clearly indicates that such wool is or is to be commingled. No warehouseman shall commingle with wool belonging to any depositor wool which is owned by him solely, jointly, or in common with others.

(b) Before making any change in his policy as to whether he will store in his warehouse wool which is to be commingled, each warehouseman shall file with the chief of the Service a statement in writing showing the proposed change, the effective date thereof, and the reasons therefor.

§ 104.27 Insurance; requirements. (a) Each warehouseman, when so requested in writing as to any wool by the depositor thereof or lawful holder of the receipt covering such wool, shall, to the extent

he is able to procure such insurance, keep | of which it is a part and the estimate | house, both on the inside and exterior such wool while in his custody as a warehouseman insured in his own name or arrange for its insurance otherwise to the extent so requested against loss or damage by fire or lightning. When insurance is not carried in the warehouseman's name the receipts shall show that the wool is not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally, or by telegraph, or by telephone immediately notify the person making the request of the fact. Nothing in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all wool stored in his warehouse.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by § 104.6 and at such other place as the chief of the Service or his representative may from time to time designate, a notice stating briefly the conditions under which the wool will be insured against loss or damage by fire or lightning.

(c) Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

(d) Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, promptly pay over to the persons concerned any portion of such moneys which they may be entitled to receive from him.

§ 104.28 System of accounts. Each warehouseman shall use for his warehouse a system of accounts, approved for the purpose by the department, which shall show for each lot of wool received, its weight, the number of bags or bales, its grade when its grade is required to be, or is, ascertained, its location in the warehouse, the dates received for and delivered out of storage, the receipts issued and canceled, and a separate record for each depositor of wool, and such accounts shall include a detailed report of all moneys received and disbursed and of all insurance policies taken out and canceled. In addition, for wool the identity of which is to be preserved, the accounts shall show its identification in accordance with § 104.34, and for wool the identity of which is not preserved the accounts shall

of the shrinkage of such wool stated on the receipt therefor.

(b) Each warehouseman shall provide a metal fireproof safe, a fireproof vault. or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the warehouse, including his current receipt book, copies of receipts issued, and canceled receipts, except that, with the written approval of the department upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety approved by the chief of the Service or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancellation and shall be preserved in numerical order thereafter.

§ 104.29 Reports; copies. (a) Each warehouseman shall from time to time make such reports as the chief of the Service or his representative may require, on forms furnished for the purpose by the Service, concerning the condition, contents, operation and business of the warehouse.

(b) Each warehouseman shall keep on file, as a part of the records of the warehouse, for such period as may be prescribed by the department, an exact copy of each such report submitted by such warehouseman under this section and copies of grade and weight certificates as are required to be filed with him by \$ 104.57.

§ 104.30 Canceled receipts; auditing. Each warehouseman, when requested by the Service, shall forward his canceled receipts for auditing to Washington or to such offices of the Service as may be designated from time to time. For the purpose of this section, only such portion as may be designated of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

§ 104.31 Warehouse charges. A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted the warehouseman shall file with the Service a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Service a statement in writing showing the proposed change and the reasons warehouseman shall therefor. Each keep exposed conspicuously, in the place prescribed by § 104.6 and at such other place, accessible to the public, as the department may from time to time designate, a copy of his current rules and schedule of charges.

§ 104.32 Signs; posting; design. (a) Every warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license, display and mainshow the designation of the lot or pile tain suitable signs on the licensed warewalls, and particularly on doors and usual places of entry, in such manner as would ordinarily be calculated to give the public notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of such size and design as to readily attract the attention of the public and shall show the following: (1) The name and license number of the licensee, (2) the name of the warehouse, (3) whether the warehouseman is owner or lessee, and (4) the words 'Public warehouse."

(c) Such other wording or lettering as is not inconsistent with the purposes of the act and these regulations and is approved by the chief of the Service may appear in the sign or signs.

(d) Upon the expiration of his license and during any period of suspension thereof the warehouseman shall immediately remove all references to the license.

(e) The warehouseman shall not permit any sign to remain on his licensed property which might lead to confusion as to the tenancy.

§ 104.33 Examination of warehouses. Each warehouseman shall permit any officer or agent of the department, authorized by the Secretary, or his designated representative, for the purpose, to enter and inspect or examine at any time any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and shall furnish such officer or agent the assistance necessary to enable him to make any such inspection or examination under this section.

§ 104.34 Identity - preserved wool. Upon the acceptance by a warehouseman for storage in his warehouse of any lot of wool, the identity of which is to be preserved, he shall store, or cause to be stored, such wool in an individual section or space designated by lot numbers, or by letters, or other clearly distinguishing words or signs, permanently and securely affixed thereto, or shall so mark the container or containers of such wool or so place the wool in the warehouses that its identity will not be lost during the storage period.

§ 104.35 Arrangement of wool. Each warehouseman shall arrange the bags or bales of wool in his warehouse so that each lot can be identified and the bags or bales in each lot readily checked. If tiered the bags or bales may be stored in double rows but one end of each bag so tiered shall face an aisle. Bulk wool shall be so stored that it may readily be measured and the quantity therein estimated. To each lot whether of bagged, baled, or bulk wool shall be secured a tag, which shall always be accessible and plainly visible, showing the lot or pile number and the number of bags or bales and, if bulk wool, the pounds of wool therein. For any wool which has been temporarily removed from a lot for display, sampling, or other purposes proper notation shall be made on the reverse side of the lot tag showing the quantity so removed and its location. Such notation shall be stricken out upon the return of the wool to its lot.

\$ 104.36 Wet or fire-damaged wool. A warehouseman shall not store any wool that is excessively wet in contact with any other wool in the warehouse. A warehouseman shall not store in the same compartment with wool that has not been damaged by fire any bag or lot of wool that has been damaged by fire until the fire-damaged wool has been removed from the bag or lot, and then he shall not store it in contact with wool that has not been so damaged.

§ 104.37 Care of wool and other commodities. (a) Each warehouseman shall at all times, including any period of suspension of his license, exercise such care in regard to wool in his custody as a reasonably careful owner would exercise under the same circumstances and conditions. The warehouseman shall not handle or store wool in such manner as may tend to injure or damage the wool.

(b) If, at any time, a warehouseman shall handle or receive wool otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same and otherwise exercise such care with respect to it as not to endanger the wool in his custody as a licensed warehouseman or impair the insurance thereon or his ability to meet his obligations and perform his duties under the act and these regu-

§ 104.38 Warehouse to be kept clean. Each warehouseman shall keep his warehouse clean and free from trash, dust, rubbish, and scattered wool. He shall also exercise every precaution to keep his warehouse free of moths and other pests.

§ 104.39 Business hours. (a) Each warehouse shall be kept open for the purpose of receiving wool for storage and delivering wool out of storage every business day, excepting Saturdays when the period may be shorter, for a period of not less than six hours between the hours of 8 a. m. and 6 p. m., except as provided in paragraph (b) of this section.

(b) If the warehouse is not kept open regularly as required in paragraph (a) of this section, the warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open and the name of an accessible person, with the address where he is to be found, who shall be authorized to deliver wool stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor.

§ 104.40 Excess storage. If at any time a warehouseman is offered wool in such quantity that to store it would result in exceeding his licensed capacity, he shall so arrange the wool as not to obstruct free access thereto and the proper use of sprinkler or other fire pro- license issued to a grader and/or weigher. by any person for a license to grade and

tection equipment provided for such warehouse and shall immediately apply to the chief of the Service to have the licensed capacity increased. Until such increase is granted, no receipt shall be issued for such wool.

§ 104.41 Removal of wool from warehouse. Unless it becomes absolutely necessary to protect the wool, no wool covered by receipts issued under the act shall be removed from a warehouse, except as provided in section 104.42, and immediately upon any such removal the warehouseman shall notify the chief of the Service of such removal and the necessity therefor.

§ 104.42 Delivery of wool. Except as may be provided by law or by these regulations, each warehouseman (a) upon proper presentation of a receipt for commingled wool and upon payment or tender of all advances and legal charges shall deliver to the lawful holder of such receipt wool of the kind, grade, quantity, and approximate shrinkage named in such receipt or in the grade certificate covering the particular lot of wool specified by the receipt and (b) upon proper presentation of a receipt for any wool, the identity of which was to be preserved during the storage period, and upon payment or tender of all advances and legal charges, shall deliver to the person lawfully entitled thereto the identical wool so stored in his warehouse.

§ 104.43 Signers of warehouse re-ceipts; filing names. Each warehouseman shall file with the department the name and genuine signature of each person authorized to sign warehouse receipts for the warehouseman, and shall promptly notify the department of any changes as to person authorized to sign and shall file the signatures of such persons, and each warehouseman shall be bound by such signatures the same as if he had personally signed the receipt.

§ 104.44 Weighing apparatus; examination. Any weighing apparatus used for ascertaining the weight stated in a receipt or certificate issued for wool stored in a warehouse shall be subject to examination by any officer or agent of the department. If the department shall disapprove any such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any wool for the purposes of the act and these regula-

§ 104.45 Fire loss; report by wire. If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by wire to the department the occurrence of such fire and the extent of damage.

FEES

§ 104.46 License fees; grader's and weigher's. There shall be charged, assessed, and collected a fee of \$10 for each warehouseman's license, or any amendment thereto, and a fee of \$3. for each

§ 104.47 Warehouse inspection fees. There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application of a warehouseman, a fee at the rate of \$2 for each 100,-000 pounds of the storage capacity or fraction thereof, determined in accordance with section 104.12 (a) but in no case less than \$10 nor more than \$200, and for each reexamination or reinspection applied for by such warehouseman a fee, based on the extent of the reexamination or reinspection, proportioned to but not greater than that prescribed for the original examination or inspection.

§ 104.48 Advance deposit. Before any warehouseman's license or amendment thereto is granted, or an original examination or inspection, or reexamination or reinspection, applied for by a warehouseman, is made, pursuant to these regulations, the warehouseman shall deposit with the Service the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the Service, or post office or express money order payable to the order of "Treasurer of the United States."

§ 104.49 Return of excess deposit. The Treasurer of the United States shall hold in a special deposit account each advance deposit made under Section 104.48 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

GRADERS AND WEIGHERS

§ 104.50 Applications. (a) Applications for licenses to grade or to weigh wool under the act shall be made to the department on forms furnished for the

(b) Each such application shall be signed by the applicant, shall be verified by his under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (1) the name and location of the warehouse or warehouses licensed, or for which application for license has been made, under the act, in which wool sought to be graded or weighed under such license is or may be stored: (2) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose; (3) satisfactory evidence that he is competent to perform the kind of service for which a license is sought; (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and the regulations so far as the same may relate to him; and (5) such other information as the department may deem necessary.

(c) A single application may be made

weigh upon complying with the require- | tion the grade certificate may include | may, whenever he deems necessary, susments of this section.

§ 104.51 Examination, Each applicant for a license as a grader or weigher and each grader or weigher shall, whenever requested by an authorized agent of the department designated by the chief of the Service for the purpose, submit to an examination or test to show his ability properly to perform the duties of a licensed grader or weigher.

§ 104.52 Posting of license. Each grader or weigher shall keep his license conspicuously posted in the office of the warehouse where most of the grading or weighing is done.

§ 104.53 Proper discharge of duties. Each grader and each weigher, when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms, grade or weigh and certificate the grade or weight of wool stored or to be stored in a warehouse for which he holds a license, if such wool be offered to him under such conditions as permit proper grading or weighing and the determination of the grade or weight thereof. In every case when the graded wool is to be commingled the grader shall make a careful estimate of its shrinkage. Each such grader or weigher shall give preference to persons who request his services as such over persons who request his services in any other capacity. No grade certificate or weight certificate shall be issued under the act for wool not stored or not to be stored in a licensed warehouse.

§ 104.54 Grade certificate; form. Each grade certificate issued under the act by a grader shall be in a form approved for the purpose by the department, and shall embody within its written or printed terms: (a) The caption "United States Warehouse Act, Wool Grade Certificate"; (b) whether it is an original, a duplicate, or other copy; (c) the name and location of the warehouse in which the wool is or is to be stored; (d) the date of the certificate: (e) the location of the wool at the time of grading; (f) the designation of the lot from which the wool was taken; (g) if the wool is not to be commingled, its identification in accordance with § 104.34; (h) the consecutive number of the certificate; (i) the pounds of each grade of wool covered by the certificate: (j) a blank space designated for the purpose in which, if the identity of the wool is to be preserved, a careful estimate of the shrinkage of the wool may be stated, or in which, if the wool is to be commingled, a careful estimate of the shrinkage of the wool shall be stated; (k) the grade of the wool as determined by such grader in accordance with §§ 104.64-104.67; (I) the lot or pile number assigned to the grade; (m) the kind of wool; (n) that the certificate is issued by a licensed grader under the United States warehouse act and the regulations thereunder; and (o) the signature of the

any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

§ 104.55 Weight certificate; form. Each weight certificate issued under the act by a weigher shall be in a form approved for the purpose by the department and shall embody within its written or printed terms: (a) The caption "United States Warehouse Act. Wool Weight Certificate"; (b) whether it is an original, a duplicate, or other copy; (c) the name and location of the warehouse in which the wool is or is to be stored: (d) the date of the certificate; (e) if the identity of the wool is to be preserved. its identification in accordance with § 104.34; (f) the consecutive number of the certificate; (g) the weight of the wool and, if the wool be excessively wet or otherwise of a condition materially affecting its weight, a statement of such fact, (h) that the certificate is issued by a licensed weigher, under the United States warehouse act and the regulations thereunder; and (i) the signature of such weigher. In addition the weight certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

§ 104.56 Combined certificate. The grade and weight of any wool, ascertained by a grader and weigher, may be stated on a certificate meeting the combined requirements of §§ 104.54-104.55 of this regulation, if the form of such certificate shall have been approved for the purpose by the department.

§ 104.57 Copies of certificates. Each grader and each weigher shall keep for a period of one year in a place accessible to persons financially interested, a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the wool covered by the certificate is stored.

§ 104.58 Inspections. Each grader and each weigher shall permit any duly authorized officer or agent of the department to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination mentioned in § 104.33, as far as any such inspection or examination relates to the performance of his duties as a licensed grader or licensed weigher.

§ 104.59 Reports. Each grader and each weigher shall, from time to time, when requested by the department, make reports on forms furnished for the purpose by the Service bearing upon his activities as such grader or weigher.

§ 104.60 Suspension or revocation of licenses. Pending investigation, the Secgrader who graded the wool. In addi- retary, or his designated representative, way represent himself to be a grader or

pend the license of a grader or weigher temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor submitted by the licensee, or when the licensee has ceased to perform the services for which licensed, the Secretary, or his designated representative, may without hearing. suspend or revoke the license issued to such licensee. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section. suspend or revoke a license issued to a grader or weigher when such licensee has, in any manner, become incompetent or incapacitated to perform his duties as such licensee. As soon as it shall come to the attention of a licensed warehouseman that any of the conditions in this section exist, it shall be his duty to notify in writing the chief of the Service. Before the license of any grader or weigher is permanently suspended or revoked pursuant to section 12 of the act (46 Stat. 1464; 7 U.S.C. 253), such licensee shall be furnished by the Secretary, or by his designated representative. a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 104.72.

§ 104.61 Return of suspended, revoked, terminated licenses. (a) In case a license issued to a grader or weigher is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the grader or weigher to whom it was originally issued, and it shall be posted as prescribed in § 104.52.

(b) Any license issued under the Act and these regulations to a grader or weigher shall automatically terminate as to any warehouse whenever the license of such warehouse shall expire or be suspended or revoked. Thereupon the license of such grader or weigher shall be returned to the Secretary. In case such license shall apply to other warehouses, the Secretary, or his designated representative, shall issue to him a new license, omitting the names of the warehouses the licenses of which have been suspended or revoked. Such new license shall be posted as prescribed in § 104.52.

§ 104.62 Lost or destroyed licenses. Upon satisfactory proof of the loss or destruction of a license issued to a grader or weigher, a duplicate thereof may be issued under the same number.

§ 104.63 Unlicensed persons; misrepresentation. No person shall in any cense is in suspension or has been revoked.

WOOL GRADING

§ 104.64 State of grades. Whenever the grade of wool is required to be or is stated for the purposes of the act or these regulations, it shall be stated in accordance with §§ 104.64-104.67.

§ 104.65 Wool grades; adoption; terms defined. (a) The official wool grades of the United States within their scope are hereby adopted as the official wool standards for the purposes of the act and these regulations.

(b) Factors other than those included in the official grades and for which no standards of the United States are in effect shall be stated in accordance with any standards approved for the purpose by the Service.

(c) Wool which is reduced in value because of the presence of extraneous matter, or irregularity, or other defect not affecting its grade, such as wrapped with sisal or binder twine, excessively wrapped, dead, cotted, burry, seedy, black, gray, or colored, damaged, carbonizing, kempy, or false packed, shall be so designated.

(d) For the purpose of this section the following terms used in connection with or to describe wool, shall be construed respectively to mean:

Excessively wrapped. Wool tied with more wrappings of twine than is necessary to bundle properly folded and rolled fleeces.

Dead wool. Wool from dead sheep. Cotted wool. Wool that has felted or matted on the sheep's back.

Burry wool. Wool containing burrs removable by hand or mechanical means. Seedy wool. Wool containing seeds, chaff, or other vegetable matter.

Black, gray, or colored wool. Entire fleeces or portions of fleeces of black, gray, or colored wool.

Damaged wool. Wool damaged by fire, water, moisture, or moths.

Carbonizing wool. Wool from which the burrs or other substances can be removed only by carbonizing.

Kempy wool. Wool containing kemps, opaque, white fibers, found generally in the fleeces of old or sick sheep.

False packed. A fleece so packed as fraudulently to conceal substances entirely foreign to wool.

Lamb's wool. The first fleeces shorn from young sheep.

Buck's. The heavy, oily fleeces shorn from male sheep.

Bright. Bright, white lustrous wool. Semibright. Lustrous wool dulled in color by the foreign matter it contains.

§ 104.66 Examination, basis of grade. Whenever the grade of wool is required to be or is stated for the purposes of the act or these regulations, it shall be based upon a careful and thorough examination of the wool, and the grading thereof shall be made under conditions which

grade.

§ 104.67 Wool standard forms. Each warehouseman and grader shall keep himself provided with, or have access to, a set of practical forms of the official wool standards of the United States.

§ 104.68 Wool arbitration. (a) Except when agreements have been made in accordance with the United States arbitration act (43 Stat. 883; 9 U.S.C. 1-15), in case a question arises as to whether the condition, grade, or shrinkage of the wool was correctly stated in a receipt, or grade certificate issued under the act and these regulations, the licensed warehouseman or the lawful holder of the receipt or certificate concerned, after reasonable notice to the other interested party, may submit the question to an arbitration committee for determination in accordance with this

(b) Such arbitration committee shall be composed of three or more distinterested persons who are competent to pass upon the questions involved. If there be a local trade organization such as a board of trade, chamber of commerce, exchange, or inspection department which provides such a committee under a rule or practice acceptable to the chief of the Service for the purpose, such a committee may determine the question. In the absence of such committee, or if for any good reason not inconsistent with the act and these regulations such committee is not acceptable to either of the parties interested, the complainant and the other party shall each name a member, and the two members so named shall select a third member, who shall constitute the arbitration committee. member of any such committee shall at all times be subject, for good cause, to the disapproval of the chief of the Service, and in case any member is so disapproved he shall not thereafter act on an arbitration committee which is considering any questions relating to the same lot of wool unless such disapproval be with-

(c) It shall be the duty of the interested parties to acquaint the arbitration committee with the exact nature of the question to be determined and all the necessary facts and to permit the committee to examine the receipt, certificate, or wool involved or any papers or records needed for the determination of the question. The committee shall make a written finding setting forth the question involved, the necessary facts, and its determination. Such findings or a true copy thereof shall be filed as a part of the records of the licensed warehouseman involved. It may dismiss the matter without determination upon the request of the complainant, or for noncompliance by the complainant with the law or these regulations, or because it is without sufficient evidence to determine the question, in which case the decision shall be lations has been violated.

weigher licensed under the act if his li- | permit the determination of its true | deemed to be against the complainant. Except as otherwise provided by law, its decision shall be final for the purposes of the act and these regulations, unless the chief of the Service shall direct a review of the question. Any necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the committee shall decide that such expense shall be prorated between the parties.

(d) If the decision of the arbitration committee be that the grade, condition, or shrinkage was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it, and he shall substitute therefore one conforming to the decision of the committee.

MISCELLANEOUS

§ 104.69 Bonds required of State warehouses. Every person applying for a license under section 9 of the act (46 Stat. 1464; 7 U.S.C. 248, or licensed thereunder, shall, as such, be subject to all portions of these regulations, except § 104.5, so far as they relate to warehousemen. If there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under Section 9 of the act to accept the custody of wool and to store the same in any of said warehouses may, in lieu of a bond or bonds, complying with §§ 104.11-104.12, file with the Secretary a single bond meeting the requirements of the act and these regulations, in such form and in such amount, not less than \$5,000, as he shall prescribe, to insure the performance by such person with respect to the acceptance of the custody of wool and its storage in the warehouses in such system for which licenses are or may be issued of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any amendments thereto. In fixing the amount of such bond, consideration shall be given among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed, a further amount, fixed by him, to meet such conditions.

8 104 70 Publications. Publications under the act and these regulations shall be made in such media as the chief of the Service may from time to time designate for the purpose.

§ 104.71 Violations to be reported. Every person licensed under the act shall immediately furnish the department any information which comes to the knowledge of such person tending to show that any provision of the act or these regu-

§ 104.72 Procedure in hearings. For the purpose of a hearing under the act or these regulations, except § 104.68, the licensee involved shall be allowed a reasonable time, fixed by the Secretary, or his designated representative, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at the time and place fixed by, the Secretary or his designated representative. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary or his designated representative. Every written entry in the records of the department, made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearings shall be made a part of the records of the department. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary, or his designated representative, for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

§ 104.73 One document and one license to cover several products. (a) A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such license is desired, a single application, inspection, bond, record, report, or other paper, document, or proceeding relating to such warehouse shall be sufficient unless otherwise directed by the Service.

(b) Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the chief of the Service in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

§ 104.74 Amendments. Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

day of September 1940. Witness my hand and the seal of the Department of Agriculture.

GROVER B. HILL, [SEAL] Acting Secretary of Agriculture.

[F. R. Doc. 40-3792; Filed, September 9, 1940; 11:59 a. m.]

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[40-Tob-42-Supplement 1]

PART 727-FLUE-CURED TOBACCO

MARKETING QUOTA REGULATIONS-1940-41 MARKETING YEAR

Marketing Quota Regulations, Fluecured Tobacco-1940-41 Marketing Year, are hereby amended as follows:

Section 727.1341 is amended by adding at the end thereof the following:

The marketing quota for any farm having tobacco carried over from a crop produced prior to the calendar year 1940, shall be whichever of the following is applicable:

(1) If the harvested acreage of tobacco in the year in which the carry-over tobacco was produced is not greater than the acreage allotment for such year and the acreage of tobacco harvested on the farm in 1940 is not greater than the acreage allotment for such year, the marketing quota shall be the actual production of tobacco on the farm acreage allotment for 1940 plus the amount of the carry-over tobacco.

(2) If the acreage of tobacco harvested on the farm in the year in which the carry-over tobacco was produced is greater than the acreage allotment for such year and the acreage of tobacco harvested on the farm in 1940 is less than the acreage allotment for 1940 by as much as the number of acres obtained by dividing into the carry-over tobacco the normal yield for the farm, the farm marketing quota shall be the actual production on the farm in 1940 plus the amount of the carry-over tobacco.

(3) If the acreage of tobacco harvested on the farm in the year in which the carry-over tobacco was produced is greater than the acreage allotment for such year and the acreage of tobacco harvested on the farm in 1940 does not exceed the 1940 acreage allotment but is not less than such acreage allotment by as much as the number of acres obtained by dividing into the total pounds of carry-over tobacco the normal yield for the farm, the farm marketing quota shall be the actual production of tobacco on the farm in 1940.

(4) If the harvested acreage of tobacco in the year in which the carryover tobacco was produced is greater

Done at Washington, D. C. this 7th | than the acreage allotment for such year and the acreage of tobacco harvested on the farm in 1940 is greater than the acreage allotment for such year, the marketing quota shall be the actual production of tobacco on the farm acreage allotment for 1940

(5) If the harvested acreage of tobacco in the year in which the carryover tobacco was produced is not greater. than the acreage allotment for such year but the acreage of tobacco harvested on the farm in 1940 is in excess of the acreage allotment for such year the marketing quota shall be the actual production of tobacco on the farm acreage allotment for 1940, plus the amount of carry-over tobacco.

Excess tobacco in the case of farms having tobacco carried over from the calendar year prior to 1940 shall be all tobacco available for marketing from the farm in excess of the farm marketing quota determined as provided under paragraphs 3, 4 or 5 above.

Section 727.135 is amended by adding at the end thereof the following:

(d) Issuance of marketing cards for farms having carry-over tobacco. (1) For any farm on which the marketing quota is that amount determined pursuant to paragraph 1 or 2 of § 727.134 above, there shall be issued a within quota marketing card, unless the farm is operated by a person who also operates another farm on which there is tobacco available for marketing in excess of the farm marketing quota, in which event there shall be issued an excess marketing card.

(2) For any farm on which the farm marketing quota is that amount determined pursuant to paragraph 3, 4 or 5 of § 727.134 above, there shall be issued an excess marketing card.

The percent excess for any farm for which paragraphs 3 and 4 of § 727.134 are applicable shall be computed as follows: (a) A number of acres shall be determined by dividing into the carry-over tobacco the 1940 normal yield per acre for the farm; (b) the number of acres determined under (a) shall be added to the 1940 harvested acreage; (c) there shall be subtracted from the acreage determined under (b) the 1940 acreage allotment; and (d) the result obtained under (c) shall be divided by the acreage determined under (b).

The percent excess for any farm for which paragraph 5 of § 727.134 is applicable shall be computed as follows: (a) A number of acres shall be determined by dividing into the carry-over tobacco the 1940 normal yield per acre for the farm; (b) the number of acres under (a) shall be added to the 1940 harvested acreage; (c) the number of acres determined under (a) shall be added to the 1940 acreage allotment; (d) there shall be subtracted from the acreage determined under (b) the acre-

¹⁵ F.R. 2501.

result obtained under (d) shall be divided by the acreage determined under

Section 727.1371 is amended by adding at the end thereof the following:

The rights of producers in the marketing card for a farm having tobacco carried over from a crop produced prior to 1940 shall be determined in accordance with the provisions of this section. except that the burden of any penalty with respect to any such carry-over tobacco shall be borne by those persons having an interest in such tobacco.

Done at Washington, D. C., this 7th day of September, 1940. Witness my hand and the seal of the Department of Agriculture.

PAUL H. APPLEBY, [SEAL] Acting Secretary of Agriculture.

F. R. Doc. 40-3791; Filed, September 9, 1940; 11:58 a. m.]

TITLE 33-NAVIGATION AND NAVI-GABLE WATERS

CHAPTER II—CORPS OF ENGINEERS. WAR DEPARMENT

PART 207-NAVIGATION REGULATIONS

§ 207.20 Cape Cod Canal, Mass.; use, administration, and navigation.—(a) Limits. The Cape Cod Canal, including approaches, extends from the outer extremity of the northerly stone breakwater in Cape Cod Bay at Sandwich through dredged channels and land cuts to a point in Buzzards Bay, Massachusetts, about five miles southwest of Wings Neck Light.

(b) Authority of canal officers. The movement of all vessels and craft of every description through the canal, and the care and maintenance of the canal and all pertaining properties, shall be under the supervision of the District Engineer of the Engineer Department at Large, and his accredited agents, who have general charge of Federal waterway improvements in the locality and whose address is U. S. Engineer Office, 3d Floor, Park Square Building, 31 St. James Avenue, Boston, Massachusetts.

(c) Vessels allowed passage. The canal is open for passage to all adequately power motivated vessels in good condition, of sizes consistent with safe navigation as governed by the controlling dimensions of the waterway. Vessels without engine motive power must not attempt to sail through the canal. Low powered vessels should await slack water or favorable current.

(d) Tows. Tows shall be assembled outside the canal entrances when practicable. Vessels in tow shall be securely fastened to the towing vessel and to each other. Long hawsers are not permitted.

(e) Obtaining clearance. Vessels other than craft less than 25 feet in

clearance has been obtained. Ordinarily, vessels will be given clearance in order of arrival, but when several vessels are to be passed, clearance will be given in the following order:

First. To vessels owned by the United States or employed on canal improvement work.

Second. To passenger vessels.

Third. To freight vessels, towboats and pleasure craft.

- (f) Clearance signals. The following signals apply to all vessels other than craft less than 25 feet in length. Westbound traffic. When the green light is showing at the eastern or Cape Cod Bay terminal, vessels may proceed through the canal. When the amber light is showing, vessels may proceed as far as the East Mooring Basin where they must stop and from whence clearance will be granted by motor boat or other signal. When the red light is showing, vessels must stop clear of the outer end of the Cape Cod Bay approach channel.
- (2) Eastbound traffic—(i) Signals at Wings Neck. When the green light is showing, vessels may proceed through the canal. When the amber light is showing, vessels may proceed through the Hog Island Channel as far as the West Mooring Basin or the State Pier. When the red light is showing, vessels, other than those bound to Onset Bay or Monument Beach, must stop clear of Buoys Nos. 1 and 2 at the entrance to Hog Island Channel. In daytime when sunshine partially obscures the traffic lights or if the electrical current should be temporarily interrupted, a red ball or shape will be operated from a pole about 60 feet southwest of the traffic lights. The raised ball has the same meaning as the red light; the ball lowered to the ground, the same meaning as the green light.
- (ii) Signals at Station 389. These signals will be operated in synchronism with the signals at Wings Neck except:

In emergencies not foreseen when a vessel passes in by Wings Neck.

When dispatching vessels from the West Mooring Basin or the State Pier.

When the green light is showing, vessels may proceed. When the amber light is showing, vessels may proceed through the Hog Island Channel as far as the West Mooring Basin or the State Pier. When the red light is showing, vessels must not pass Station 389.

- (3) In thick weather, all vessels, having obtained clearance, shall signal by three long blasts of whistle or horn when passing in by Wings Neck Light or Sandwich Breakwater.
- (4) When signal lights are obscured by thick weather, clearance should be secured by radio or other reliable
- (g) Railroad bridge signals. (1) The vertical lift span of the railroad bridge a. m. to 2:25 a. m., 7:43 a. m. to 8:43

age determined under (c) above; (e) the | length, shall not transit the canal until | is normally kept in the raised position except when lowered for the passage of trains. Immediately preceding the lowering of the span the operator will sound two long blasts of a whistle or horn. Immediately preceding the raising of the span, the operator will sound one long blast of a whistle or horn. When a vessel is approaching the bridge with the span in the lowered position, if it will not be raised immediately, the operator will so indicate by sounding four short blasts in quick succession upon a whistle or horn

(2) When the railroad lift span is lowered in foggy weather, there will be four blasts of a whistle or horn on the span every two minutes. Vessels in transit, especially when with a fair current, must exercise extreme caution when the span is lowered.

(h) Speed—(1) General. No boat in the canal shall be raced or crowded alongside another boat. All vessels must pass mooring dolphins, wharves, landings, and dredging plant or other floating work units at minimum speed so as to avoid damage to moored or anchored vessels by wave wash or suction.

(2) Limits. Vessel speed will be determined by the time of passage (east or west) between Canal Stations 35+00 (opposite U. S. Engineer Observer's Station near east end) and 388+00 (opposite U.S. Engineer Sub-Office near west end). No boat shall pass between these points in less than the following specified minimum running times:

> Minimum running time canal stations 35 to 388

Current direction: (minutes) Head (against boat)_____Fair (with boat)_____

The above-designated minimum running time for slack water shall apply to any boat which enters that portion of the canal between Stations 35 and 388 by passing either Station 35 or Station 388 at any time within a period of one hour before the predicted time of slack water as given in the U.S. Coast & Geodetic Survey publication "Current Tables, Atlantic Coast." The above-designated applicable minimum running times for head or fair current, respectively, shall apply to any boat which enters that portion of the canal between Stations 35 and 388 by passing either Station 35 or Station 388 at any time other than designated above for applicability of the requirement for slack water.

(3) Example. For example, the predicted times of slack current on October 1, 1940, at Cape Cod Canal (Bournedale), Mass., as given on page 32 of the U. S. Coast & Geodetic Survey publication "Current Tables, Atlantic Coast" are 2:25 a. m., 8:43 a. m., 2:50 p. m., and 9:07 p. m. On October 1, 1940, the slack current schedule will apply to any boat which enters the canal by passing either Station 35 or Station 388 between 1:25

^{2 § 207.20} is superseded.

a. m., 1:50 p. m. to 2:50 p. m., and 8:07 River and Harbor Act, August 8, 1917, 40 p. m. to 9:07 p. m.; the head or fair current schedule, as applicable, will apply to any boat which enters the canal by passing either Station 35 or Station 388 between midnight to 1:25 a. m., 2:25 a. m. to 7:43 a. m., 8:43 a. m. to 1:50 p. m., 2:50 p. m. to 8:07 p. m., 9:07 p. m. to midnight.

(i) Management of boats—(1) Pilot The canal is an inland waterway of the United States and the pilot rules for such waterways as given by the U.S. Bureau of Marine Inspection and Navigation publication "Pilot Rules" are applicable concerning matters not otherwise covered herein.

(2) Passing of vessels. Restricted passing is permissible, particularly when a leading, low-powered vessel is unable to stem the current, but extreme care to avoid collision is imperative.

(3) Unnecessary delay in canal. Vessels must not obstruct navigation by unnecessary delay in entering or passing through the canal or by anchoring in the channel.

(4) Mooring or anchoring in mooring basins. Vessels mooring or anchoring in the mooring basins shall do so in such manner as not to obstruct the canal channel or impede vessel movement to and from the basins.

(5) Landing of freight, etc. Except in emergencies, vessels shall not stop to land passengers, freight or baggage or to transfer same to another vessel under such conditions as would in any way interfere with navigation.

(j) Statistics. Masters of vessels shall furnish the authorized representative of the District Engineer, on each passage through the canal, such verbal or written statement of passengers, freight and registered tonnage as may be requested by said authorized representative.

(k) Deposit of refuse. No oil or other liquid, ashes or other material of any kind shall be thrown, pumped or swept into the canal or approaches, or deposited on canal grounds.

(1) Trespass upon canal property. Trespass upon the canal property, except with permit as provided in paragraph 13, or injury to the canal, lands, banks, bridges, breakwaters, dikes, dolphins, fences, culverts, trees, telephone lines, power lines, or to any other property of the United States pertaining to the canal is prohibited.

(m) Fish and game. All persons are forbidden to enter upon the United States lands or the canal for the purpose of fishing or hunting, or taking fish or game by any means, without a written permit from the District Engineer. The fish and game laws of the United States and of the State of Massachusetts will be enforced upon the canal and the lands of the United States pertaining thereto.

(n) Effective date. These regulations shall take effect and be in force from and after August 26, 1940. All previous regulations are hereby rescinded. (Sec. 7,

Stat. 266; 33 U.S.C. 1) [Regs., August 21, 1940 (E. D. 7041 (Cape Cod Canal) 28/3)1

[SEAL]

E. S. ADAMS. Major General. The Adjutant General.

[F. R. Doc. 40-3760; Filed, September 7, 1940; 9:42 a. m.]

TITLE 46-SHIPPING

CHAPTER I-BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 55]

SUBCHAPTER K-SEAMEN

DISCHARGE REGULATIONS AMENDED

SEPTEMBER 7, 1940.

Subsection (n) of § 138.9 Rules and regulations covering discharge of seaman is amended by the addition at the end thereof of a new paragraph reading as follows:

The master of the vessel shall, as soon as practicable, make a report to a regional office of the Bureau of Marine Inspection and Navigation on Form 735 (T) containing the names and the other data (except the date and place of discharge) prescribed on that form with respect to each individual member of the crew employed or serving on the vessel at midnight on September 10, 1940. The master shall report to the same regional office on Form 735 (T) every shipment, discharge, or other separation from the service of the vessel occurring after that date prior to the departure of the vessel from the port where the shipment, discharge, or separation occurred, or at the earliest possible moment thereafter.

Subsection (o) of § 138.9 Rules and regulations covering discharge of seaman is amended to read as follows:

Form 719-g shall be made out in duplicate and all information must be correctly entered and the certifications on the back properly signed. The report shall be submitted in duplicate to the United States shipping commissioner, or at ports where no shipping commissioner has been appointed, to the collector or deputy collector of customs. The original shall be forwarded to the Bureau of Marine Inspection and Navigation and the duplicate shall be retained by the shipping commissioner or collector or deputy collector of customs for his

R. S. 161, 5 U.S.C. 22; R. S. 4551 as amended, 46 U.S.C. Supp. 5, Sec. 643; Sec. 2, 23 Stat. 118, 46 U.S.C. 2; Sec. 13. Act of Mar. 4, 1915 as amended, 46 U.S.C. Supp. 5, 672; Sec. 7, Act of June 25, 1936, 46 U.S.C. Supp. 5, 689)

SOUTH TRIMBLE, Jr., Acting Secretary of Commerce.

[F. R. Doc. 40-3770; Filed, September 7, 1940; 11:29 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 746-FD]

APPLICATION OF PLIBRICO JOINTLESS PIREBRICK COMPANY

ORDER GRANTING RENEWAL OF EXEMPTION

The Plibrico Jointless Firebrick Company of Chicago, Illinois, Applicant herein, having on June 27, 1938, filed with the National Bituminous Coal Commission a verified application for exemption with respect to certain bituminous coal produced by the Applicant at its mines located in Lawrence County, Ohio, and transported by the Applicant to itself for consumption by it in the manufacture of firebrick at its plant located in Washington Township, Ohio;

The Commission, having on June 20, 1939, entered an order pursuant to an investigation of the facts alleged in said verified application, in Docket No. 746-FD, ordering that the provisions of Section 4 II (1) of the Bituminous Coal Act of 1937 apply to the bituminous coal produced by the applicant at its mines located in Lawrence County, Ohio, and consumed by it in the manufacture of firebrick at its plant located in Washington Township, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, and further ordering the Applicant to apply annually thereafter and at such other times as the Commission may require for renewal of said order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in said order continue to exist;

Applicant, on August 30, 1940, having filed with the Bituminous Coal Division, in compliance with an order of the Director dated August 19, 1940, an application for renewal of the order dated June 20, 1939, which application contains a statement of the quantities of coal produced by Applicant during the period beginning July 1, 1939, and ending July 1, 1940, at its mine located in Lawrence County, Ohio, and a statement that the facts set forth in the application for exemption filed June 27, 1938, remain true and correct;

The Director having determined that the conditions supporting the exemption granted by the order dated June 20, 1939, continue to exist:

It is ordered, That the application filed by the Applicant for the renewal of said order dated June 20, 1939, be and the same is hereby granted;

Provided, however, That the said order dated June 20, 1939, shall auto-That the said matically terminate and expire:

1. Unless the Applicant, at the expiration of six months from the date of this order, and at the expiration of each | DEPARTMENT OF COMMERCE. six-month period thereafter, files with the Director a verified report containing the following information which the Director hereby finds to be necessary and appropriate to enable him to determine whether the conditions supporting the exemption granted to the Applicant continue to exist:

(a) The full name and business address of the Applicant and the name and location of the mine or mines covered by this application;

(b) The total tonnage of bituminous coal produced by the Applicant during the preceding six months at such mine or mines:

(c) The total tonnage of such production which was consumed by the Applicant, and the nature and purpose of such consumption:

(d) A statement that all of the facts set forth in the original application for exemption filed June 27, 1938, remain true and correct.

2. Unless the Applicant shall immediately notify the Director upon:

(a) Any change in the ownership of the mine or mines from which the coal in question was produced, or in the ownership of the plant or factory or other facilities at which the coal is consumed;

(b) Any change in the agency or instrumentality through which the coal is being produced on the date of this order.

It is further ordered, That the Director at any time, upon his own motion or upon the petition of any interested person, may direct the Applicant to show cause why the exemption granted by the order of June 20, 1939, should not be terminated. Any persons filing such a petition shall serve a copy thereof upon the Applicant herein.

Dated September 6, 1940.

[SEAT.]

H. A. GRAY. Director.

[F. R. Doc. 40-3777; Filed, September 9, 1940; 9:40 a. m.]

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration. [Administrative Order No. 513]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 3, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:

HARRY SLATTERY, Administrator.

[F. R. Doc. 40-3790; Filed, September 9, 1940; 11:59 a. m.]

Civil Aeronautics Authority. [Docket No. 148]

IN THE MATTER OF THE APPLICATION OF NEW YORK AND BERMUDIAN AIR LINE FOR A CERTIFICATE OF PUBLIC CONVEN-IENCE AND NECESSITY UNDER SECTION 401 OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF POSTPONEMENT OF HEARING

Upon request of the applicant, the above-entitled proceeding, being the application of New York and Bermudian Air Line for a certificate of public convenience and necessity authorizing air transportation between Newark, New Jersey, and the Island of Bermuda, now assigned for public hearing on October 1, 1940, is hereby postponed to a date to be hereafter assigned

Dated Washington, D. C., September 4,

[SEAL]

FRANK P. McINTYRE, Examiner.

[F. R. Doc. 40-3761; Filed, September 7, 1940; 9:42 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFI-CATES FOR THE EMPLOYMENT OF LEARN-

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and Section 522.5 of Regulations Part 522, as amended, to the employers listed below effective September 10, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of Sections 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 22, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225)

Knitted Wear Order, October 24, 1939 (4 F.R. 4225).

1 Issued by Civil Aeronautics Board.

Textile Order, November 8, 1939 (4 F.R. 4531), as amended April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EX-PIRATION DATE

Athens College, Athens, Alabama; Hosiery; Full-Fashioned Hosiery; 146 learners; September 18, 1941.

Alan Dress Company, Kulpmont, Pennsylvania; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); December 3, 1940.

The Davidson Brothers Corp., Riverpoint, Rhode Island; Apparel; Ladies' Silk and Rayon Underwear; 25 learners (75% of the applicable hourly minimum wage); December 3, 1940.

Paula Garrison, Seattle, Washington; Apparel: Women's Cotton Night Wear; 4 learners (75% of the applicable hourly minimum wage); December 3, 1940.

Gerstman Manufacturing Company, Inc., 706 William Street, Buffalo, New York; Apparel; Snowsuits & Outerwear; 20 learners (75% of the applicable hourly minimum wage); December 3, 1940.

Harwood Manufacturing Company, Marion, Virginia; Apparel; Shorts & Pajamas; 60 learners (75% of the applicable hourly minimum wage); November 26, 1940.

Hyman Brothers, 33rd & Arch Streets, Philadelphia, Pennsylvania; Apparel; Rayon and Cotton Dresses; 3 learners (75% of the applicable hourly minimum wage); December 3, 1940.

B. Schwartz & Company, 1201 Race Street, Philadelphia, Pennsylvania; Apparel; Boys Clothing; 5 learners (75% of the applicable hourly minimum wage); December 3, 1940.

Advance Glove Manufacturing Company, 1040 W. Fort Street, Detroit, Michigan; Glove; Knit Fabric & Work Gloves: 5 learners: December 31, 1940.

Good Luck Glove Company, 1304 Market Street, Metropolis, Illinois; Glove; Work Gloves; 60 learners; December 31,

Jerome Knitting Mill, 289 Hepperhan Avenue, Yonkers, New York; Glove; Knit Wool Gloves: 40 learners: December 31, 1940.

Scotsmoor Company, Inc. (29 N. Market Street, Johnstown, New York; Glove; Knit Wool Gloves; 6 learners; December 31, 1940.

Wells Lamont Smith Corporation, Elsberry, Missouri; Glove; Work Gloves; 20 learners; December 31, 1940.

Wells Lamont Smith Corporation, Louisiana, Missouri; Glove; Work Gloves; 20 learners; December 31, 1940.

Signed at Washington, D. C. this 9th day of September 1940.

> MERLE D. VINCENT, Authorized Representative of the Administrator.

[F. R. Doc. 40-3786; Filed, September 9, 1940; 11:48 a, m.]

No. 176-3

SUPPLEMENTARY DETERMINATION No. 2, IN tice setting forth the above matters MATTER OF APPLICATION FOR EXEMPTION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STAND-ARDS ACT OF 1938, PART 526, AS AMENDED. OF THE REGULATIONS ISSUED THERE-UNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MATTER OF THE CRUSHED STONE INDUSTRY PURSUANT TO HEARING HELD JUNE 19, 1939

Whereas, the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

- 1. There is a branch of the crushed stone industry wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and
- 3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors; and
- 4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas, paragraph (8) of the above Determination provides that it shall be without prejudice to a supplementary determination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraphs

1 and 3 above; and

Whereas, the Kelley Island Lime and Transport Company filed an application with the Wage and Hour Division, United States Department of Labor, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by the Kelley Island Lime and Transport Company at Kelley Island, Erie County, Ohio; and

Whereas, it appeared from the application filed by the Kelley Island Lime and Transport Company, that the crushed stone plant of the aforesaid plant at Kelley Island, in Erie County, Ohio, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determination.

Whereas, the Administrator caused to be published in the FEDERAL REGISTER

which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a prima facie case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder to include the crushed stone plant of the Kelley Island Lime and Transport Company in Eric County, Ohio, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Administrator would make a finding upon the prima facie case shown on the application; and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the

publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the prima facie case shown in the said application that the crushed stone plant of the Kelley Island Lime and Transport Company in Erie County, Ohio, should be and it is hereby included within the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder.

Signed at Washington, D. C. this 5th day of September 1940.

> PHILIP B. FLEMING, Administrator.

[F. R. Doc. 40-3787; Filed, September 9, 1940; 11:48 a. m.]

SUPPLEMENTARY DETERMINATION No. 3, IN MATTER OF APPLICATION FOR EXEMP-TION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STANDARDS ACT OF 1938, PART 526. AS AMENDED, OF REGULATIONS ISSUED THEREUNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MAT-TER OF CRUSHED STONE INDUSTRY PUR-SUANT TO HEARING HELD JUNE 19, 1939

Whereas, the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

1. There is a branch of the crushed stone industry wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more

- 3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling, and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors; and
- 4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas, paragraph (8) of the above Determination provides that it shall be without prejudice to a supplementary determination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraphs 1 and 3 above; and

Whereas, the National Crushed Stone Association filed an application with the Wage and Hour Division, United States Department of Labor, on behalf of the T. P. Rogers Stone Company of Stroudsburg, Pennsylvania, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by the T. P. Rogers Stone Company at Stroudsburg, Monroe County, Pennsylvania; and

Whereas, it appeared from the application filed by the National Crushed Stone Association on behalf of the T. P. Rogers Stone Company of Stroudsburg, Pennsylvania, that the crushed stone plant of the aforesaid company in Monroe County, Pennsylvania, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determination; and

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on August 23, 1940 (5 F.R. 2948), a notice setting forth the above matters which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a prima facie case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder to include the crushed stone plant of the T. P. Rogers Stone Company in Monroe County, Pennsylvania, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Adminon August 23, 1940 (5 F.R. 2948), a no- northerly parts of the United States; and istrator would make a finding upon the

tion; and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the prima facie case shown in the said application that the crushed stone plant of the T. P. Rogers Stone Company in Monroe County, Pennsylvania, should be and it is hereby included within the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued there-

Signed at Washington, D. C., this 6th day of September 1940.

> PHILIP B. FLEMING, Administrator.

[F. R. Doc. 40-3788; Filed, September 9, 1940; 11:48 a. m.]

SUPPLEMENTARY DETERMINATION No. 4, IN MATTER OF APPLICATION FOR EXCEPTION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STAND-ARDS ACT OF 1938, PART 526, AS AMENDED, OF THE REGULATIONS ISSUED THERE-UNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MATTER OF CRUSHED STONE INDUSTRY PURSUANT TO HEARING HELD JUNE 19, 1939

Whereas, the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

- 1. There is a branch of the crushed stone industry wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States: and
- 3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors: and
- 4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas, paragraph (8) of the above Determination provides that it shall be

prima facie case shown on the applica- | without prejudice to a supplementary | 526, as amended, of the regulations isdetermination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraphs 1 and 3 above; and

Whereas, the National Crushed Stone Association filed an application with the Wage and Hour Division, United States Department of Labor, on behalf of the LeRoy Lime and Crushed Stone Corp. of LeRoy, New York, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by the LeRoy Lime and Crushed Stone Corp. at LeRoy, Genesee County, New York; and

Whereas, it appeared from the application filed by the National Crushed Stone Association on behalf of the LeRoy Lime and Crushed Stone Corp. of LeRoy, New York, that the crushed stone plant of the aforesaid company in Genesee County, New York, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determination.

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on August 23, 1940 (5 F.R. 2949), a notice setting forth the above matters which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a prima facie case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder to include the crushed stone plant of the LeRoy Lime and Crushed Stone Corp., in Genesee County, New York, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Administrator would make a finding upon the prima facie case shown on the application; and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the prima facie case shown in the said application that the crushed stone plant of the LeRoy Lime and Crushed Stone Corp. in Genesee County, New York, should be and is hereby included within the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part

sued thereunder.

Signed at Washington, D. C. this 6th day of September 1940.

> PHILIP B. FLEMING, Administrator.

[F. R. Doc. 40-3789; Filed, September 9, 1940; 11:49 a. m.]

NOTICE OF PUBLIC HEARING BEFORE IN-DUSTRY COMMITTEE No. 14 FOR THE PURPOSE OF RECEIVING EVIDENCE TO BE CONSIDERED IN RECOMMENDING MINI-MUM WAGE RATES FOR THE CONVERTED PAPER PRODUCTS INDUSTRY

In conformity with the Fair Labor Standards Act of 1938, 52 Stat. 1060, and § 511.11 of Part 511 of the Rules and Regulations issued pursuant thereto, notice is hereby given to all interested persons that a public hearing will be held beginning at 10 A. M., October 10, 1940, in Conference Room B, U. S. Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D. C., for the purpose of receiving evidence to be considered by Industry Committee No. 14 in determining the highest minimum wage rates for the Converted Paper Products Industry, which, having due regard to economic and competitive conditions, will not substantially curtail employment.

The term "Converted Paper Products Industry" is defined in Administrative Order No. 56, issued July 8, 1940, as follows:

"The manufacture of all products which have as a basic component pulp, paper, or board (as those terms are used in Administrative Order No. 41 defining the Pulp and Primary Paper Industry) and the manufacture of all like products in which synthetic materials, such as cellophane, pliofilm or synthetic resin, used in sheet form is a basic component.

"Provided, however, That the manufacture of the following shall not be in-

"(a) Any product the manufacture of which is covered by a wage order of the Administrator relating to the Textile, Apparel, Hat, Millinery or Shoe Industry or by an order of the Administrator appointing an industry committee for and defining the Pulp and Primary Paper, Carpet and Rug, or Luggage and Leather Goods Industry.

"(b) Any product, such as rayon, cellophane, etc., made from such pulp by a process which involves the destruction of the original fibrous structure of such pulp.

"(c) Wall paper, roofing paper, insulation board, shingles or lamp shades.

"(d) Newspapers, magazines, books, blueprints, photographs and other products in which graphic art is the exclusive medium through which the products function: Provided, however, That the production of printed forms, stationery, blank books, and tablets, other than the

printing thereof in a job printing establishment, and the production of other products in the use of which graphic art is applied by the ultimate consumer of the products, shall be included within the converted paper products industry as herein defined.'

Industry Committee No. 14 was created by Administrative Order No. 56, referred to above. It is charged, in accordance with the provisions of the Fair Labor Standards Act of 1938 and Rules and Regulations promulgated thereunder, with the duty of investigating conditions in the Converted Paper Products Industry and recommending to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce", excepting employees ex-empted by the provisions of section 13 (a) and employees coming under the provisions of section 14.

Any person who, in the opinion of the Committee or its duly authorized subcommittee, has a substantial interest in the proceeding and is prepared to present material pertinent to the question under consideration, may appear on his own behalf or on behalf of any other person. Persons desiring to appear are requested to file with Burton E. Oppenheim, Director of the Industry Committee Branch, Wage and Hour Division, U. S. Department of Labor, Washington, D. C. prior to October 2, 1940, a Notice of Intention to Appear containing the following information:

(1) The name and address of the person appearing.

(2) If he is appearing in a representative capacity, the name and address of the person or persons whom, or organization which, he is representing.

(3) A brief summary of the material intended to be presented.

(4) The approximate length of time which his presentation will consume.

Since the Committee may decline to hear certain persons on the basis of information received pursuant to item (3) above, and since the length of the hearing will require that appearances be scheduled, persons who have filed Notice of Intention to Appear will be notified whether or not they will be heard and if so at what time.

All testimony will be taken under oath and subjected to reasonable cross examination by any interested person present. Testimony so received will be offered as evidence at the public hearing to be held by the Administrator on such minimum wage recommendations as Industry Committee No. 14 may make.

Written briefs of persons who can not appear personally will be considered by the Committee provided that thirty-five copies thereof are received at the address last given not later than October 4, 1940.

day of September 1940.

WAYNE LYMAN MORSE, Chairman, Industry Committee No. 14

for the Converted Paper Products Industry. [F. R. Doc. 40-3785; Filed, September 9, 1940;

11:49 a. m.]

FEDERAL COMMUNICATIONS COM-MISSION.

[Docket No. 5902]

IN RE APPLICATION OF DOUGHTY AND WELCH ELECTRIC COMPANY, INC. (WSAR), ASSIGNOR

Dated, May 6, 1940; for voluntary assignment of license to The Fall River Broadcasting Company, Inc., Assignee; class of service, broadcast; class of station, broadcast; location, Fall River, Mass.; present assignment: Frequency, 1450 kc.; power, 1 kw.; hours of operation, unlimited, DA-day and night

> [File No. B1-AL-280] NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the extent to which Fall River Herald News Publishing Company, owner of all the stock of the proposed assignee, Fall River Broadcasting Company, Inc., will participate in the management and control of that com-

2. To determine whether a grant of the above-entitled application would place the ownership of the only radio station in Fall River, Mass., in a corporation controlled by the publisher of the only daily English-language newspaper in the community, and if so whether such control would result substantially in a monopoly of the media for general dissemination of intelligence in the community.

3. To determine, if consent is given to the assignment of the license as requested, the residence of the trustees holding the outstanding stock of Fall River Herald News Publishing Company, and their powers, rights, and responsibilities with respect to Station WSAR, the character and extent of their participation in the management of the Station as well as their relationships to and interests in any other business or financial enterprise.

4. To determine, if consent is given to the assignment of the license as requested, the age and residence of the beneficial owners of the stock of the Fall River Herald News Publishing Company. and their powers, rights and responsibilities with respect to Station WSAR, the character and extent of their participation in the management of the Station, regulations.

Signed at Washington, D. C., this 5th | as well as their relationships to and interests in any other business or financial enterprise.

5. To determine whether a grant of the above entitled application would be in the public interest.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicants' addresses are as fol-

Doughty & Welch Electric Company, 102 South Main Street Academy Building Fall River, Mass.

The Fall River Broadcasting Co., Inc.

Att: Charles E. Sevigny, Treasurer 207 Pocasset Street Fall River, Mass.

Dated at Washington, D. C., September 6, 1940.

By the Commission.

JOHN B. REYNOLDS, [SEAL] Acting Secretary.

[F. R. Doc. 40-3764; Filed, September 7, 1940; 10:32 a. m.]

[Docket No. 5903]

IN RE APPLICATION OF GEORGIA SCHOOL OF TECHNOLOGY (WGST)

Dated January 31, 1940, for renewal of license (main and auxiliary); class of service, broadcast; class of station, broadcast; location, Atlanta, Georgia; operating assignment specified: Frequency, 890 kc.; power, 1 kw. night, 5 kw. day; hours of operation, unlimited

> [File No. B3-R-411] NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether applicant, while holding a license for this station has assumed the responsibilities and discharged the duties of a licensee of a radiobroadcast station as required by the Act and the Commission's rules and

2. To determine whether applicant, either directly or indirectly, has transferred, assigned, or in any manner disposed of any of the rights granted in the station's license to any other person, firm or corporation, without having obtained the written consent of the Commission, in violation of the Communications Act of 1934, as amended, particularly Section 310 (b) thereof.

3. To determine whether the station has been operated by any person without a license to do so granted by this Commission, in violation of the Communications Act of 1934, as amended, particuuarly Section 301 thereof.

4. To determine whether the granting of this application and the continued operation of the station will serve public interest, convenience and necessity.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Pro-

The applicant's address is as follows:

Georgia School of Technology, Radio Station WGST. North Ave. & Cherry St., Atlanta, Ga.

Dated at Washington, D. C., September 6. 1940.

By the Commission.

[SEAL]

JOHN B. REYNOLDS. Acting Secretary.

[F. R. Doc. 40-3765; Filed, September 7, 1940; 10:32 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5469]

IN THE MATTER OF INLAND POWER & LIGHT COMPANY AND PACIFIC POWER & LIGHT COMPANY

ORDER POSTPONING HEARING

SEPTEMBER 6, 1940.

Commissioners: Leland Olds, Chairman, Basil Manly, John W. Scott and Clyde L. Seavey. Claude L. Draper, not participating.

Upon the application filed August 21, 1940, by the attorneys for the Inland Power & Light Company and Pacific Power & Light Company, applicants in the above entitled matter, requesting continuance to November 12, 1940, of the hearing in said matter heretofore set for September 9, 1940, at 10 o'clock a. m.;

be and the same hereby is postponed to begin at 10 o'clock a.m. on the ninth day of October, 1940, in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 40-3776; Filed, September 9, 1940; 9:40 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. FDC-7-C]

ORDER POSTPONING THE EFFECTIVE DATE OF THE DEFINITION AND STANDARD OF IDEN-TITY FOR EVAPORATED MILK

Upon the application of the Evaporated Milk Association, and for good cause shown.

It is ordered, That the effective date of the regulation fixing and establishing a definition and standard of identity for evaporated milk (§ 18.520, 5 F.R. 2444) be and hereby is postponed until March 1, 1941.

> WAYNE COY. Acting Administrator.

SEPTEMBER 6, 1940.

[F. R. Doc. 40-3784; Filed, September 9, 1940; 11:36 a. m.]

Social Security Board.

CERTIFICATION TO THE UNEMPLOYMENT COMPENSATION DIVISION OF THE NEW HAMPSHIRE BUREAU OF LABOR

The Unemployment Compensation Division of the Bureau of Labor of the State of New Hampshire having duly submitted to the Social Security Board, pursuant to the provisions of section 1602 (b) (3) of the Internal Revenue Code, as amended, the New Hampshire Unemployment Compensation Law, as amended; and

The Social Security Board having considered the provisions of said law to determine whether or not reduced rates of contributions are allowable thereunder under conditions fulfilling the require-ments of section 1602 of the Internal Revenue Code:

The Board hereby finds that:

(1) Said law provides for a pooled fund as defined in section 1602 (c) (2) of the Internal Revenue Code; and

(2) Reduced rates of contributions under said law to such pooled fund are allowable only in accordance with the provisions of section 1602 (a) (1) of the Internal Revenue Code.

Pursuant to the provisions of section 1602 (b) (3) of the Internal Revenue Code, the Board hereby directs that the foregoing findings be certified to the Unemployment Compensation Division of sions of subsection (c) of section 2 of the

It is ordered, That the said hearing | the Bureau of Labor of the State of New Hampshire.

> SOCIAL SECURITY BOARD. A. J. ALTMEYER,

Chairman.

AUGUST 30, 1940.

Approved:

WAYNE COY. Acting Administrator.

SEPTEMBER 6, 1940.

[F. R. Doc. 40-3783; Filed, September 9, 1940; 11:36 a. m.

FEDERAL TRADE COMMISSION.

[Docket No. 4111]

IN THE MATTER OF JUDSON L. THOMSON MANUFACTURING COMPANY, A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIX-ING TIME AND PLACE FOR TAKING TESTI-MONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of September, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Edward E. Reardon. a trial examiner of this Commission, be and he thereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 1, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Court Room No. 5, Twelfth Floor, Post Office Building, Boston, Massachusetts.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-3763; Filed, September 7, 1940; 10:18 a. m.]

[Docket No. 4292]

IN THE MATTER OF H. WELDON RUFF, AN INDIVIDUAL TRADING AS H. M. RUFF & SON

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provi-

¹⁵ F.R. 2554.

Clayton Act, as amended by the Robin- in lieu thereof in substantial amounts to by the respondent to purchasers upon the son-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent H. Weldon Ruff is an individual trading as H. M. Ruff & Son, with his principal office and place of business located in York, Pennsylvania. Respondent is engaged in the business of a field broker, acting as agent of sellers in transactions of sale and purchase of canned fruits and vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by rerespondent through brokers, commonly known as corresponding or local brokers, who are employed by respondent to assist him in making such sales. In other instances sales of such commodities are effected for sellers by respondent to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondent received from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondent through corresponding or local brokers, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by sellers to respondent for services in connection with such sales is granted and allowed by respondent to such corresponding or local brokers for brokerage services rendered to respondent in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondent to purchasers directly, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by the sellers to respondent for services in connection with such sales, or an allowance or discount in lieu thereof, is granted and allowed by respondent to such purchasers.

PAR. 3. In the course and conduct of his said business since June 19, 1936, respondent has effected sales of such commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

Par. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondent to purchasers directly as set forth in Paragraph 2 hereof, respondent has granted and allowed brokerage fees and commission or allowances and discounts such purchasers.

PAR. 5. Respondent is also engaged in the business of purchasing canned fruits and vegetables for his own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondent has made many purchases of such commodities for his own account for resale as aforesaid from sellers located in states other than the State of Pennsylvania, pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondent or, pursuant to instructions and directions from respondent, to the respective purchasers to whom such commodities have been resold by respondent.

Since June 19, 1936, respondent has also made many purchases of such commodities for his own account as aforesaid from sellers located in the State of Pennsylvania, which sellers, pursuant to instructions and directions from respondent, have caused the commodities so purchased by respondent to be shipped and transported from the State of Pennsylvania across state lines to the respective purchasers to whom such commodities have been resold by respondent.

Par. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondent for his own account in interstate commerce as set forth in Paragraph 5 hereof, respondent has received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

Par. 7. Since June 19, 1936, respondent has resold such commodities purchased for his own account as set forth in Paragraph 5 hereof to purchasers located in states other than the State of Pennsylvania, pursuant to which sales respondent has caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondent upon the purchases of commodities by the respondent as set forth in Paragraph 6 hereof; and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof cedure, to find such facts to be true, and

resale of commodities by the respondent as set forth in Paragraph 7 hereof, are in violation of subsection (c) of section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 30th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, H. Weldon Ruff, an individual trading as H. M. Ruff & Son, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening prosuch facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 30th day of August, A. D., 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-3762; Filed, September 7, 1940; 10:18 a. m.l

SECURITIES AND EXCHANGE COM-MISSION.

[File No. 1-1301]

IN THE MATTER OF PIERCE OIL CORPORA-TION \$100 PAR 8% CUMULATIVE CON-VERTIBLE PREFERRED STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 5th day of September, A. D. 1940.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the \$100 Par 8% Cumulative Convertible Preferred Stock of Pierce Oil Corporation;

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard.

It is ordered. That the matter be set down for hearing at 10 A. M. on Thursday, October 3, 1940, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence,

evant or material to the inquiry, and to istrant which tends to show that: perform all other duties in connection therewith authorized by law.

By the Commission.

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40–3767; Filed, September 7, 1940; 10:51 a. m.]

[File No. 70-92]

IN THE MATTER OF COMMUNITY NATURAL GAS COMPANY

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of September, A. D. 1940.

Community Natural Gas Company, a subsidiary of Lone Star Gas Corporation, having filed an application and amendments thereto pursuant to Section 10 of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it of utility assets of Gainesville Gas Company, and

A public hearing 1 with respect to the proposed transaction having been had after appropriate notice, and

The Commission having considered the record and having made and filed its findings and opinion herein,

It is ordered, That said application, as amended, be and the same hereby is granted, subject to the provisions of Rule U-9 promulgated under the Public Utility Holding Company Act of 1935.

By the Commission.

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3766; Filed, September 7, 1940; 10:51 a. m.]

IN THE MATTER OF JESSE MARVIN STRONG. 223 MAIN STREET, HUDSON FALLS, NEW YORK

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCA-TION AND SUSPENSION OF REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of September 1940.

The Commission's public official files disclose that:

Jesse Marvin Strong, a sole proprietorship organized under the laws of the State of New York, is registered as an over-the-counter dealer pursuant to Section 15 of the Securities Exchange Act of

Members of its staff having reported to the Commission information obtained as

if in the judgment of the Commission | memoranda or other records deemed rel- | a result of an investigation of said reg-

Said registrant was convicted on March 28, 1938 of a felony involving the purchase of securities and arising out of the conduct of the business of a broker and dealer.

Said registrant is permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Albany, entered April 18, 1940. from engaging in the sale of securities in the State of New York.

Said registrant has failed to report and correct the inaccuracy of the information furnished under Item 20 and Item 21 of the application for registration by means of a supplemental report on Form 6-M disclosing the fact that registrant was convicted as alleged above in Subparagraph A and disclosing the fact that registrant is permanently enjoined as described above in Subparagraph B.

TIT

The Commission, having considered such information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

- (a) Whether the statements set forth in Subparagraphs A, B and C of Paragraph II hereof are true;
- (b) Whether said registrant has willfully violated Rule X-15B-2 adopted by the Commission pursuant to Sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934; and
- (c) Whether it is in the public interest to revoke or suspend the registration of said registrant under Section 15 (b) of the Securities Exchange Act of 1934.

It is ordered, That proceedings be held to determine whether the registration of Jesse Marvin Strong should be revoked or suspended, pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934.

It is further ordered, That a hearing for the purpose of taking testimony be held at 10:00 A. M. on October 1, 1940, at the New York Regional Office of the Securities and Exchange Commission, 120 Broadway, New York, and that said hearing be continued at such other time and place as the Commission or officer conducting said hearing may determine; that for the purpose of said hearing Adrian C. Humphreys be and he is hereby authorized to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized

¹⁵ F.R. 2720.

It is further ordered, That this order | In the Matter of Martin Weiss, Doing and notice be served on said registrant personally or by registered mail not less than seven (7) days prior to the time of hearing, or in the event of failure to serve the registrant personally or by registered mail that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR.

Secretary.

[F. R. Doc. 40-3768; Filed, September 7, 1940; 10:51 a. m.]

[File No. 30-55]

IN THE MATTER OF IRWIN T. GILRUTH AND CHARLES A. McDonald as Trustees of PUBLIC UTILITIES SECURITIES CORPO-RATION

ORDER REGARDING EFFECTIVENESS OF REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of September, A. D. 1940.

Irwin T. Gilruth and Charles A. McDonald as Trustees of Public Utilities Securities Corporation having registered as a holding company pursuant to the Public Utility Holding Company Act of 1935 and having filed an application pursuant to section 5 (d) of said Act for an order that they as Trustees have ceased to be a holding company; hearing on said application having been held after appropriate public notice; the record in this matter having been considered and the Commission having found that such Trustees have ceased to be a holding company:

It is ordered. That the registration of Irwin T. Gilruth and Charles A. McDonald, Trustees of Public Utilities Securities Corporation, as a holding company pursuant to the Public Utility Holding Company Act of 1935 shall forthwith cease to be in effect.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3779; Filed, September 9, 1940; 11:13 a. m.]

BUSINESS AS MARTIN WEISS & Co., 25 WHITEHALL STREET, NEW YORK, NEW

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCA-TION AND SUSPENSION OF REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of September 1940.

It appearing to the Commission that Martin Weiss, a sole proprietorship, doing business as Martin Weiss & Co., hereafter called the registrant, is registered with the Commission as a broker and dealer, pursuant to section 15 (b) of the Securities Exchange Act of 1934;

п

The Commission being advised by members of its staff that as a result of an investigation of said registrant evidence has been obtained tending to show that:

A

The registrant is permanently enjoined by order of the Supreme Court of the State of New York, in and for the County of New York, entered on or about December 21, 1939, from engaging in or continuing any conduct or practice in connection with the sale of any security.

That the registrant has failed to report and correct the inaccuracy of the information furnished under Items 2 and 21 of his application for registration, by means of a supplemental statement on Form 6-M, disclosing the change in the Post Office address of his principal office and the fact that on or about December 21. 1939, he was enjoined as hereinabove alleged in sub-paragraph A; and

III

The Commission deeming it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statements set forth in sub-paragraphs A and B of Paragraph II hereof are true;

(b) Whether said registrant has wilfully violated the provisions of said Rule X-15B-2; and

(c) Whether it is in the public interest to revoke or suspend the registration of said registrant under Section 15 (b) of the Securities Exchange Act of 1934.

It is ordered. That proceedings be held to determine whether the registration of Martin Weiss, doing business as Martin Weiss & Co., should be revoked or suspended, pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934.

It is further ordered, That a hearing for the purpose of taking evidence be held at 2:00 P. M. on October 4, 1940, at the New York Regional Office, Securities and Exchange Commission, 120 Broadway, New York, N. Y., and that said hearing be continued at such other time or place as the Commission or officer conducting said hearing may determine; that for the purpose of said hearing Adrian C. Humphreys be and he is hereby designated as the officer of the Commission and, pursuant to Section 21 (b) of the Securities Exchange Act of 1934, said officer is hereby authorized to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on said registrant personally or by registered mail not less than seven (7) days prior to the time of hearing, or in the event of failure to serve the registrant personally or by registered mail that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAT.]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3782; Filed, September 9, 1940; 11:14 a. m.]

[File No. 1-2764]

IN THE MATTER OF THE CENTRAL FOUNDRY COMPANY 5% GENERAL MORTGAGE CON-VERTIBLE BONDS DUE 1941

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of September, A. D., 1940.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated there-

under, having made application to strike from listing and registration the 5% General Mortgage Convertible Bonds due 1941 of The Central Foundry Company;

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered. That the matter be set down for hearing at 10 A. M. on Wednesday, October 2, 1940, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humpherys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law. By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3781; Filed September 9, 1940; 11:14 a. m.]

[File No. 54-23]

IN THE MATTER OF THE UNITED ILLUMI-NATING TRUST AND THE ILLUMINATING SHARES COMPANY

ORDER ACCELERATING EFFECTIVE DATE OF POST-AMENDMENT

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of September, A. D. 1940.

The Securities and Exchange Commission having entered an order herein on the 15th day of August 1940 approving a plan of corporate simplification of The United Illuminating Trust and The Illuminating Shares Company, which order also provided that the declaration of said companies pursuant to Rule U-12E-5 with respect to the solicitation of authorizations of certain matters by the stockholders of The Illuminating Shares Company should become effective forthwith:

Said The Illuminating Shares Company having filed a post-amendment to its declaration herein on September 5, 1940, containing a copy of certain revised solicitation material and having requested the Commission to shorten the period within which said declaration as thus post-amended shall become effective:

thus post-amended be and become effective forthwith.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3778; Filed, September 9, 1940; 11:13 a. m.]

[File No. 1-2862]

IN THE MATTER OF OROGRANDE-FRISCO GOLD MINES, INC., 10¢ PAR VALUE COM-MON STOCK

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of September, A. D. 1940.

The San Francisco Mining Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 10¢ Par Value Common Stock of Orogrande-Frisco Gold Mines, Inc.; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on September 27, 1940.

By the Commission.

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-3780; Filed, September 9, 1940; 11:13 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, AUGUST 31, 1940

Important. Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service the charge for his appointment continues to run against his State of original

It is ordered, That said declaration as | residence. Certifications of eligibles are first made from States which are in arrears.

State		Number of positions to which entitled	Number of posi- tions oc- cupied			
IN ARREARS						
1. Virgin Islands 2. Puerto Rico 3. Hawaii 4. Alaska 5. California 6. Texas 7. Louisiana 8. Michigan 9. Arizona 10. South Carolina 11. Mississippi 12. Arkansas 13. Alabama 14. New Jersey 15. Ohio 16. Georgia 17. Kentucky 18. Oklahoma 19. New Mexico 10. North Carolina 21. Hennessee 22. Nevada 23. Illinois 25. Indiana 26. Vermont 27. Florida 28. Connecticut 29. Idaho 30. North Dakota 31. Oregon 32. Delaware 33. Rhode Island		10 682 163 26 2, 507 2, 572 928 887 819 1, 169 1, 785 2, 935 1, 284 1, 155 1, 168 1, 169 1, 1	0 47 17 9 909 1, 084 448 1, 068 100 431 536 506 723 1, 110 1, 831 819 748 748 748 1, 28 961 884 32 2, 733 1, 106 884 1, 202 1, 2			
State	Numbero positions to which entitled	positions				
35. Kansas. 36. Utah. 37. West Virginia. 38. New York. 39. Wyoming. 40. Pennsylvania. 41. New Hampshire. 42. Missouri. 43. Minnesota. 44. Massachusetts. 45. Washington. 46. Montans. 47. Iowa. 48. South Dakota. 49. Colorado. 50. Nebraska. 51. Virginia. 52. Maryland. 53. District of Columbia.	831 224 764 5, 559 100 4, 253 205 1, 603 1, 132 1, 876 609 237 1, 091 306 457 608 1, 009 720 215	774 5,667 102 4,341 211 1,665 1,179 1,963 731 1,252 1,171 329 502 766 2,076 2,145	+34 +21 -30 -13 +7 +17 -9			
GAINS						

By direction of the Commission.

L. A. MOYER. Executive Director and Chief Examiner.

[F. R. Doc. 40-3771; Filed, September 7, 1940; 12:34 p. m.]

¹⁵ F.R. 2911. No. 176-4

